



Department for  
Communities and  
Local Government

Mrs Sarah Worthington  
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Our Ref: APP/J4423/A/12/2178393

18 July 2013

Dear Mrs Worthington,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY GLEESON HOMES AND REGENERATION  
LAND OFF MONTENEY ROAD AND REMINGTON ROAD, PARSON CROSS,  
SHEFFIELD S5 9AH  
APPLICATION REF:11/02168/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Clive Sproule BSc MSc MRTPI MEnvSc CEnv, who held a public local inquiry which opened on 20 November 2012 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Sheffield City Council (the Council) to refuse planning permission for the erection of 387 houses, provision of public open space, formation of two no. playing fields, landscaping and associated infrastructure works, on land of Montenevy Road and Remington Road, Parson Cross, Sheffield, S5 9AH, in accordance with planning application ref: 11/02168/FUL, dated 29 June 2011.

2. The appeal was recovered for the Secretary of State's determination on 19 July 2012 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 150 units and is on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's Recommendation and Summary of the Decision**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission be granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

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## **Procedural Matters**

4. The application was refused for two reasons but the Secretary of State notes that the first reason for refusal, relating to provision of renewable or low carbon energy, had been resolved prior to the inquiry (IR2). Consequently, the inquiry, the IR and the Secretary of State's decision focus on the second reason for refusal, relating to design and loss of open space. The Secretary of State further notes that a typographical error in the original decision notice was corrected and drawn to the Inspector's attention (IR3).

5. At the inquiry an application for costs was submitted by your client against the Council. This application is the subject of a separate decision letter.

## **Policy Considerations**

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Sheffield Unitary Development Plan (UDP) (1998); and the Sheffield Development Framework Core Strategy (CS) (2009). Development plan policies relevant to the appeal are identified at IR9-16.

7. Work has commenced on a Sheffield Development Framework City Policies and Sites Plan (CPS), with a consultation draft published in May 2010 that included the appeal site as a potential housing allocation; and draft policies relating to design (IR17). The Secretary of State is aware that the Council published a pre-submission CPS for consultation in June 2013, which continues to allocate the appeal site for housing. Although the CPS is a material consideration, the Secretary of State considers that the emerging plan should be afforded only limited weight, given the stage of plan preparation.

8. The Regional Strategy for Yorkshire and the Humber was partially revoked on 22 February 2013, following the closure of the inquiry. No RS housing policies were placed before the inquiry (IR167) and no reliance is placed on RS policies in this case. Therefore the revocation of the RS is not considered to materially affect the Inspector's conclusions and the Secretary of State does not consider that it is a change in policy that requires a referral back to parties in advance of determining this appeal.

9. Other material considerations include the design related documents in the Statement of Common Ground (IR18) and the National Planning Policy Framework (the Framework) (IR19). In addition the Secretary of State has had regard to Circular 11/95 The Use of Conditions in Planning Permissions; the Community Infrastructure Levy (CIL) Regulations (2010) as amended; Technical Guidance to the National Planning Policy Framework (2012); and the Written Ministerial Statement on Housing and Growth of 6 September 2012.

## **Main Issues**

10. The Secretary of State agrees with the Inspector that the main issues are those set out in the Inspector's conclusions at IR163. Before turning to these, he has considered the other matters identified in IR162 and IR164-177. He agrees with the Inspector that concerns regarding the level of consultation by the Appellant attract little

weight against the proposal (IR162). The Secretary of State notes that both main parties consider the appeal site to be appropriate for housing and that it would help to meet the City's housing needs. He agrees with this assessment and with the Inspector's reasoning and conclusions that the Council's housing supply policies are relevant in this case, but not up to date, as there is an agreed absence of a five year land supply of deliverable sites (IR165-168). In such cases the presumption in favour of sustainable development is engaged.

11. The Secretary of State agrees with the Inspector's reasoning and conclusions that the effects of the appeal proposal on highway safety attract limited weight (IR168-170); that the development would be beneficial to local wildlife and this attracts some weight in favour of the appeal (IR171); that the potential to cause flooding elsewhere can be addressed by conditions (IR172); that the impact on living conditions would not be harmful and that expected and potential benefits provide considerable weight in favour of the appeal scheme (IR173-175); and that the economic benefits provide significant weight in favour of the appeal scheme (IR176-177).

### **Whether the proposal would be a sustainable form of development**

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on this issue as set out in IR178-180. The appeal proposal would comply with CS policies CS64 and CS65 and would be a sustainable form of development for which there is a presumption in favour (IR180).

### **The effect of the development proposed on the provision of open space**

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on this issue as set out in IR181-195. He notes that there is disagreement on how a quantitative shortage of open space should be calculated. However, like the Inspector he finds that the facilities for outdoor sport that would be provided by the appeal proposal would meet the objectives of development plan policy. He agrees that significant weight should be attached to these beneficial consequences of the development (IR195).

### **The effect of the development proposed on the character and appearance of the locality**

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on this issue as set out in IR196-234. He finds the relevant development plan policies in regard to design consistent with the objectives of each other and the Framework (IR196) and gives them due weight. He notes that the matters of concern to the Council covered a wide range of design matters, many of which had been addressed prior to the determination of the application; and that revisions have been made to the scheme by the Appellant to provide a layout and design that is more responsive to the existing character and appearance of the locality (IR201).

15. The Secretary of State has carefully considered all the matters of detailed design identified by the Inspector. He agrees that the appeal proposal would provide a legible street scene with a clear character (IR202-205). Although the layout and built form would differ from the regularity of the existing surrounding development, he agrees that there are enough common points of reference for the proposed dwellings to successfully respond to local character (IR206-210). Where there would be differences in elements of the design of buildings from the surrounding area, eg

fenestration, he does not find these harmful to local character (IR211-212). In respect of the street hierarchy and related matters, the Secretary of State agrees that the treatment of street containment is one of the weaker elements of the scheme, but that it needs to be considered within the context of the development as a whole (IR213-218).

16. In matters relating to boundaries and frontage treatments, and response to the local townscape, the Secretary of State agrees with the Inspector's conclusions (IR219-229). He further agrees that the development would contribute to place-making by producing distinct areas of development and associated open space, that would shape and contribute to its immediate surroundings and the wider locality (IR230). He finds the appeal scheme to have adequately addressed the objectives of Building for Life '12' (IR231). Whilst he recognises the ambitions of the Council, he agrees with the Inspector that there are contradictions within its case in respect of elements of the scheme (IR232).

17. In conclusion on this important issue, the appeal proposals would develop an open area with topographical constraints situated within an existing residential area, with housing and open space. It would not be innovative architecture, but neither when considered as a whole would the development be poor design. The Secretary of State agrees with the Inspector that given these circumstances, the appeal scheme would respect and enhance the character and appearance of the locality, and this adds significant weight in its favour (IR233-234).

**The effect of the development proposed on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities**

18. The Secretary of State agrees with the Inspector's reasoning and conclusions on this issue as set out in IR235-238. The Secretary of State notes the Appellant's intentions to provide low cost housing and the provisions made in the S106 agreement for affordable homes to be considered should market conditions and viability of the scheme change. He agrees that this attracts considerable weight in favour of the proposal (IR237). He further agrees that the appeal scheme would help to create high quality, sustainable, mixed and inclusive communities (IR238).

**Conditions and Obligations**

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and the planning obligation, as set out in IR144-160. The Secretary of State has considered the proposed conditions, the Inspector's assessment and re-working of these at IR144-153 and national policy as set out in Circular 11/95. He agrees with the Inspector's assessment that the conditions, as recommended, are necessary and he considers that they comply with the provisions of Circular 11/95.

20. The Secretary of State is satisfied that the provisions of the S106 agreement, with the exception of the proposed contributions listed at IR156-157 to outdoor sports and children's play facilities, pitches and facilities at Colley Park and towards public art, satisfy the tests of Regulation 122 of the CIL Regulations 2010 as amended (IR154-160). In determining this appeal the Secretary of State has not taken into account the contributions in the planning obligation, listed in IR156 and IR157. Although the contributions are agreed between the parties, he agrees with the Inspector that there is insufficient detailed justification to demonstrate that these

contributions are fairly and reasonably related in scale and kind to the development proposed (IR160).

## **Overall Conclusions**

21. The Secretary of State agrees with the Inspector's reasoning and conclusions as set out in IR239-249. He acknowledges that the case illustrates the challenges faced by an ambitious authority seeking to drive forward the design of a scheme and those of a developer that understands its market and what is deliverable in individual circumstances (IR239). After careful consideration of the issues he agrees with the Inspector that in this case the balance of considerations lie in favour of the appeal scheme. The appeal site, although not allocated for development, has been available to the market and considered for housing development for some time. Its development would aid regeneration and provide low cost housing (IR240). It would also contribute to meeting the shortfall in five year land supply in a sustainable location.

22. In seeking to meet the Council's concerns about design, the Appellant has modified its normal approach to development on sites with challenging marketing conditions (IR242). The Secretary of State agrees that, although elements of the proposal could be improved, overall it is not a poor design that would warrant a refusal of permission under the test in paragraph 64 of the Framework (IR243-245). He agrees that it is a successful response to the locality and the intended market and that it complies with many elements of development plan policies (IR241-247).

## **Formal Decision**

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation at IR250. He hereby allows your client's appeal and grants planning permission for the erection of 387 houses, provision of public open space, formation of two no. playing fields, landscaping and associated infrastructure works, on land of Montenev Road and Remington Road, Parson Cross, Sheffield, S5 9AH, in accordance with planning application ref: 11/02168/FUL, dated 29 June 2011, subject to the conditions listed at Annex A of this letter.

24. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning authority fail to give notice of their decision within the prescribed period.

25. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## **Right to Challenge the Decision**

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

27. A copy of this letter has been sent to Sheffield City Council. A notification letter/email has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

Pamela Roberts  
Authorised by the Secretary of State to sign in that behalf

## ANNEX A

### LIST OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan	No ref
Planning Layout (Monteney)	342-SK3
Planning Layout (Colley)	343-SK3
Street Elevations	342-3el2A
Site Sections	342-S2a
Topographical Survey (Monteney)	No ref
Topographical Survey (Colley)	No ref
Detailed Landscape Plans	2267/2C
	2267/3C
	2267/4C
Detailed Landscape Plans (Colley)	2267/13B
	2267/14B
	2267/15B
	2267/16B
Garage Plans	SD702
	Typical Arrangements

House Type	Floor Plans (HT1)	Urban Elevations (HT2)	County / Rural Elevations (HT3)	Contemporary Elevations (HT4)
201	201M	201-08B	201-09C	201-10B
202	202L	202-09A	202-10A	202-11A
301	301L	301-08A	301-09A	301-10A
302	302M	302-09D	302-10D	302-11D
303	303L	303-09	303-10	303-11
304	304J	304-09A	304-10A	304-11A
309	309H	309-10A	309-11B	309-12A
310	310G	310-10A	310-11B	310-12A
400	400H	400-09B	400-10B	400-11B
401	401P	401-09C	401-10D	401-11C
403	403M	403-09C	403-10C	403-11C
404	404L	404-09B	404-10B	404-11B
405	405L	405-09B	405-10C	405-11B
406	406P	406-10A	406-11	406-12

- 3) No development shall take place until a phasing strategy for the development hereby permitted, **that shall include the house and elevation treatment types within them and final topographic levels on the sites**, has been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved phasing strategy.

- 4) For each phase of development, details of all proposed external materials and finishes, including samples when requested by the local planning authority, shall be submitted to and approved in writing by the local planning authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.
- 5) For each phase of development, large scale details at a minimum of 1:20 of typical window reveals shall be approved in writing by the local planning authority before that part of the development commences. Thereafter, the development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of measures to protect the existing trees, shrubs and hedge/s that are to be retained as detailed on plans 2267/2 Rev C, 2267/3 Rev C and 2267/4 Rev C (Monteney) and 2267/13B (Colley) have been submitted to and approved in writing by the local planning authority. All measures to protect the existing trees, shrubs and hedge/s that are to be retained shall be carried out in accordance with the approved details. These measures shall include a construction methodology statement and plan showing accurate root protection areas and the location and details of protective fencing and signs. Protection of trees shall be in accordance with BS 5837, 2005 (or its replacement) and the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way. The local planning authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until the completion of the development unless otherwise approved.
- 7) For each phase the landscape works as detailed on plans 2267/13B, 2267/14B, 2267/15B, 2267/16B, 2267/2C, 2267/3C and 2267/4C shall be implemented prior to the development in that phase being fully brought into use or in the next planting season where this is first agreed in writing with the local planning authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, and an implementation timetable, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any phase of the development. The landscape management plan shall be carried out for each phase in accordance with the implementation timetable as approved.
- 9) Prior to the occupation of any dwelling hereby permitted a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include:

- i. Objectives to influence a lifestyle that will be less dependent on the private car;
  - ii. Measures to encourage less car-dependent living;
  - iii. A programme of implementation and monitoring to a defined timescale;
  - iv. Provision for the independent validation of the results and findings of the monitoring which shall be submitted to the local planning authority in accordance with the programme for its written approval; and,
  - v. Provisions for the validated results and findings of the monitoring for these results and findings to be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets which shall be submitted to the local planning authority in accordance with the programme for its written approval.
- 10) Prior to the first occupation of the dwellings hereby permitted details shall be submitted to and approved in writing by the local planning authority of arrangements which have been entered into which will secure the improvements to the highways and facilities listed below:
- i. The provision of a zebra crossing on Remington Road to connect the new proposed open space with Colley Park;
  - ii. The introduction of verge hardening around the perimeter of the site in locations to be agreed with the Local Planning Authority;
  - iii. The four existing bus stops on Montenev Road and Remington Road to include installation of bus stops/shelters.

**The details submitted in accordance with this condition shall include a timetable for the implementation of the arrangements. The highways and facilities improvements shall be provided in accordance with the approved details and the timetable for the implementation of the arrangements.**

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 12) No development shall take place until a dilapidation survey of the existing highways adjoining the site has been jointly undertaken with the Council. Prior to the first occupation of 95% of the dwellings hereby permitted, a further survey shall be jointly undertaken with the Council. Any remedial works to rectify damage to the highway as a consequence of the development hereby permitted, identified by comparing the two surveys, together with a timetable for

carrying out such works, shall be agreed in writing with the local planning authority prior to the first occupation of all of the dwellings in the development hereby permitted, and the remedial works shall be carried out in accordance with that agreement.

- 13) Prior to the first occupation of each phase of the development the vehicle and pedestrian areas to be adopted within that phase shall have been surfaced to base tarmac course in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority, and prior to the first occupation of all of the dwellings in each phase of the development all such vehicle and pedestrian areas shall have been surfaced to wearing course standard in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority.
- 14) Within 3 months of the completion of all of the phases of the development any damage to the footways abutting the development site's frontage caused by the general movement of construction vehicles shall be repaired / resurfaced in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.
- 15) The garages hereby permitted shall be retained and kept available for the parking of cars and other vehicles at all times.
- 16) No development shall take place until a site investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site, including the timing and phasing of the remediation, to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins. The site shall be remediated in accordance with the approved details, including any measures that would form part of the development, such as the provision of gas vents or membranes within buildings and other structures.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 17) Construction and demolition works that are audible at any site boundary shall only take place between 0730 hours and 1800 hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays and Public Holidays.
- 18) Before the development of each phase is commenced, full details of the proposed refuse and recycling storage facilities to be provided to serve the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a method statement indicating how the facilities will be managed and serviced and how occupiers of the proposed development will be encouraged to maximise the use of the proposed recycling facilities to reduce general waste arising. Prior to the occupation of each dwelling they are designed to serve the approved facilities shall be implemented in conjunction with the approved method statement and the approved facilities shall be retained thereafter.

- 19) The dwellings hereby permitted shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 20) No building or other obstruction shall be located over or within 3 metres either side of the centre lines of each of the sewers (i.e. total protected strip width of 6 metres per sewer) that cross the site.
- 21) Surface water and foul drainage shall drain to separate systems.
- 22) No development shall take place until a scheme for surface water drainage works has been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and
  - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved surface water drainage scheme shall be implemented prior to the occupation of the dwellings hereby permitted.

- 23) There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.
- 24) Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage shall not be passed through any interceptor.
- 25) Before the first house is occupied:
- (i) a detailed assessment of ground conditions of the land proposed for the playing pitches as shown on plan number 343-SK3 shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - (ii) based on the results of this assessment to be carried out pursuant to (i) of this condition above, a detailed scheme to ensure that the playing field will be provided to an acceptable quality shall be submitted to and approved in writing by the local planning authority.

The approved scheme shall be implemented in full within 18 months of the first house being occupied.

- 26) Prior to the commencement of the development hereby approved, a Management and Maintenance Scheme for the playing pitches as shown on plan number 343-SK3 shall be submitted to and approved in writing by the local

planning authority. The scheme shall include management responsibilities, a maintenance schedule and a mechanism for review for a period of 25 years. The approved Management and Maintenance Scheme shall be implemented in accordance with the approved details.

- 27) The development shall only be carried out in accordance with the approved Flood Risk Assessment by JOC Consultants Limited (Report No.11/005.01 Revision 2 dated 19<sup>th</sup> May 2011) and the following mitigation measures detailed within the Flood Risk Assessment:

A detailed drainage design, development in accordance with the principles set down in the Flood Risk Assessment shall be submitted to and approved by the local planning authority prior to the commencement of each phase of development. The scheme shall take account of the existing land drain on the site and shall detail phasing of the development and phasing of the drainage provision where appropriate. The work shall be implemented in accordance with the approved phasing and no part of phase of the development shall be brought into use until the drainage works approved for that part of phase have been completed.



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# Report to the Secretary of State for Communities and Local Government

by Clive Sproule BSc MSc MSc MRTPI MIEnvSc CEnv

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

Date: 25 March 2013

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## **TOWN AND COUNTRY PLANNING ACT 1990 APPEAL BY GLEESON HOMES & REGENERATION**

**ERECTION OF 387 HOUSES, PROVISION OF PUBLIC OPEN  
SPACE, FORMATION OF TWO NO. PLAYING FIELDS,  
LANDSCAPING AND ASSOCIATED INFRASTRUCTURE  
OFF MONTENEY ROAD & REMINGTON ROAD,  
PARSON CROSS, SHEFFIELD S5 9AH**

Inquiry held on 20 to 23 November 2012

Off Montenevy Road & Remington Road, Parson Cross, Sheffield S5 9AH

File Ref(s): APP/J4423/A/12/2178393

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**File Ref: APP/J4423/A/12/2178393**

**Off Montenev Road & Remington Road, Parson Cross, Sheffield S5 9AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gleeson Homes & Regeneration against the decision of Sheffield City Council.
- The application Ref 11/02168/FUL, dated 29 June 2011, was refused by notice dated 18 April 2012.
- The development proposed is the erection of 387 houses, provision of public open space, formation of two no. playing fields, landscaping and associated infrastructure.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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**Procedural Matters**

1. The inquiry sat on 20, 21, 22 and 23 of November 2012, with an accompanied site visit on the first of these days. Following an exchange of correspondence in regard to draft conditions discussed on the final sitting day, the inquiry was closed in writing on 17 December 2012. At the inquiry an application for costs was made by Gleeson Homes & Regeneration against Sheffield City Council. This application is the subject of a separate Report.
2. The Council's Statement of Case confirmed that the first reason for refusal had been resolved. This was through the submission of sufficient information to demonstrate that it is neither feasible, nor viable for the development to provide a minimum of 10% of its predicted energy needs from decentralised and renewable or low carbon energy. As a result, evidence and exchanges during the inquiry focussed on the second reason for refusal.
3. Both main parties highlighted a typographical error in the second reason for refusal. The Council's Officer report on the application considered the scheme against, amongst other policies, Core Strategy Policy CS47(a). However, the second reason for refusal referred to Policy CS74(a). A corrected decision notice, which changed the reference to Policy CS47(a), was submitted as ID-3.

**The Site and Surroundings**

4. This appeal concerns a site in northern Sheffield that lies within the Parson Cross estate. There are two parts to the site that lie on either side of Remington Road and next to Colley Park, which has facilities that include sports pitches and a play area for children.<sup>1</sup> Until 2005 the site had buildings and playing fields associated with Sheffield College. Since then, the buildings have been demolished to leave the land substantially open with paths and areas of vegetation and surfacing.
5. The smaller of the two areas of land is known as the Montenev Site. It is 5.37ha and has boundaries to Montenev Road, Morrall Road, Colley Park and existing housing in Montenev Gardens. Topographic levels fall gradually eastwards along Montenev Road from its junction with Morrall Road towards the junction with Montenev Gardens. The Montenev Site comprises of two levelled areas that are separated by a steep embankment part way across the site. Falling land levels

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<sup>1</sup> Facilities in Colley Park are labelled in ID-APP8 Appendix PW3  
[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

along Montenev Road are also reflected in the steep embankments that are present at either end of the Montenev Site, which rise up to Morrall Road, and at the other end of the site, drop down to the housing in Montenev Gardens.

6. At 7.70ha, the Colley Site is the larger of the two areas. It lies to the south-west of the Montenev Site and is across Remington Road from both it, and Colley Park. The Colley Site is for the most part bounded by Remington Avenue and the curving form of Remington Road. To the south west of the Colley Site is Margetson Crescent, which contains shops and services in a neighbourhood centre.
7. Most of the housing in the Parson Cross estate dates from between 1938 and 1953. The predominantly two storey semi-detached and terraced dwellings with gardens sit alongside pockets of older and more recent development. Front garden areas within the estate layout have often been modified and dropped kerbs installed to enable off-street parking. Even so, on-street parking is used by many in the area.
8. More recent development includes that within Montenev Gardens, which provides the eastern boundary to the Montenev Site. Montenev Gardens has detached houses with gardens that were constructed in the mid-1990s.

### **Planning Policy**

9. The Council's remaining reason for refusal refers to UDP policy BE5, and Core Strategy Policies CS 47(a) and CS 74. These documents comprise the development plan for this area, along with the relevant RSS. As a result of the intention to abolish the RSS, neither of the main parties in this case has sought to rely on its policies. Only policies and the Key Diagram insofar as they relate to the York Green Belt are retained.<sup>2</sup>
10. The UDP was adopted in March 1998. UDP policy BE5 expects all new buildings to be of good design and to use good quality materials. A comprehensive and co-ordinated approach is sought for the overall design of schemes for more than one building, and while original architecture is encouraged, new buildings should complement the scale, form and architectural style of surrounding buildings. In large scale developments, the policy's criteria seek materials to be varied and the overall mass of buildings to be broken down, along with special architectural treatment for corner sites.
11. The main parties have confirmed the UDP proposals map shows that areas of the appeal site that included buildings were allocated as housing areas.<sup>3</sup> These are subject to UDP policy H10, which has a clear preference for housing development. The remainder of the application areas are shown to be open space. Criteria within UDP policy LR5 indicate the circumstances when development of open space will not be permitted, including when it would make the open space ineffective as an environmental buffer or result in harm to the character of an area. UDP policy H16 addresses open space in new housing development, seeking sufficient open space to meet local needs, and provision to

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<sup>2</sup> Following closure of the inquiry, an Order to partially revoke the RSS came into force on 22 February 2013. See paragraph 7.03 on page 12 of the SoCG [ID13]

<sup>3</sup> On page 13 of the SoCG and the relevant extract of the UDP proposals map is contained in ID-LPA3 Appendix 3

- be made for well designed informal open space, children's play facilities and outdoor sport. UDP policy BE6 seeks good quality landscape design and suitable schemes to be provided for development proposals, while policy BE12 encourages public art to be an integral part of major developments.
12. UDP policy T25 seeks, amongst other things, for house builders to provide an appropriate level of off-street parking for the development proposed. Reducing any potentially harmful effects of development on natural features of value is the subject of UDP policy GE11. Highway safety and living conditions in regard to matters that include light, privacy, and security, are the subject of UDP policy H14.
  13. The Core Strategy was adopted by the Council on 4 March 2009. Core Strategy Policy CS 47 concerns the safeguarding of open space. The Council's second reason for refusal refers to Policy CS 47 criterion (a), which is not permissive of development on open space that would result in a quantitative shortage of either formal or informal open space in the local area.
  14. Core Strategy Policy CS 74 expects development to be of high-quality that would respect and take advantage of and enhance the distinctive features of the city, its districts and neighbourhoods. Criteria within the policy provide further detail on and the nature of Policy CS 74's design principles. These include that development should respond to the various elements of the local townscape, the views within it, and the existing character of the locality. Development should contribute to place-making, help to transform the character of physical environments, provide safe and convenient access for all people, and contribute towards creating attractive, sustainable and successful neighbourhoods.
  15. Core Strategy Policies CS 64 and CS 65 seek all new buildings to be designed to reduce emissions of greenhouse gases, and use resources sustainably. Core Strategy Policy CS 67 addresses Flood Risk Management, including through measures to reduce the extent and impact of flooding.
  16. Supporting text to Core Strategy Policy CS 22 refers to the role of the RSS in regard to the scale of future housing. Policy CS 22 contains: the requirement for new housing; notes that sufficient sites will be allocated to meet the housing requirement until 2021; and, that a five year supply of deliverable sites will be maintained at all times.
  17. As a consultation draft, the SDF CPS includes the appeal site as potential housing allocation refs: P00320 and P00321, and draft policies that are relevant to the design of residential development.<sup>4</sup>
  18. Paragraph 7.25 of the SoCG lists to a number of *Design Related Documents*. Supporting text to Policy CS 74 includes Core Strategy paragraph 12.16.<sup>5</sup> It states that all new residential developments of 10 or more dwellings should achieve at least a 'good' Building for Life assessment. Building for Life '12', dated 2012, has been supplied as ID-19 and the previous 2008 edition is ID-20. Both main parties mention sections of the Design Guide, dated 2001, in support of the

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<sup>4</sup> SoCG Appendix 7, including pages 106 and 107 [ID13]

<sup>5</sup> Supplied within the Questionnaire documentation and SoCG

application of development plan policy.<sup>6</sup> The adopted Masterplan document dates from January 2005.<sup>7</sup> It indicates the Masterplan to have been a key stage in the Southey Owlerton Area Regeneration, which includes the appeal site within an area named as the New Parson Cross Redevelopment. Extracts of a subsequent unadopted document from 2007 have also been supplied, the conclusions of which consider the effects of losing open space, set against the potential benefits of improved quality of open space and other regeneration activity.<sup>8</sup>

19. In addressing agreed policies, the SoCG simply refers to "Relevant sections of the" Framework. Evidence and exchanges during the inquiry indicate the following paragraphs and sections of the Framework to be relevant: paragraphs 14 and 19; Section 6, including paragraphs 47 and 49; Section 7, in particular paragraphs 56, 58, 59, 60, 63 and 64. Also, paragraph 74 and *Core planning principles* within paragraph 17 in relation to: high quality design and a good standard of amenity; reusing previously developed land; taking account of and supporting local strategies to improve health, social and cultural wellbeing for all; and, proactively driving and supporting sustainable economic development. Annex 2 of the Framework provides a definition of open space..

### **Planning History**

20. This is described in the SoCG.<sup>9</sup> There have been two previous development proposals for the former college site. The first was in 2003. It included housing, educational and community facilities, and associated works. This proposal was withdrawn in 2006. Subsequently in 2008, an application was made to construct 336 houses and 144 apartments. However, the potential developers withdrew from the scheme in January 2011, and the application was withdrawn in February 2012.

### **The Proposal**

21. The appeal scheme would provide 387 dwellings in total, with 237 on the Colley Site and 150 on the Montenery Site. All of the dwellings would be two storey brick built houses, but they would differ in size. Of the houses on the Colley Site: 78 would be two bedroom dwellings that would be built in semi-detached blocks; there would be 104 semi-detached and 40 detached three bedroom houses; and, 15 detached four bedroom dwellings. The Montenery Site would have: 30 semi-detached two bedroom dwellings; a mixture of 51 semi-detached and detached three bedroom dwellings; and, 69 detached four bedroom houses.
22. The layout of the Colley Site includes an area of open space that would be large enough for two junior football pitches. It would be across Remington Road from Colley Park and encircled by an estate road with houses facing onto it. A landscaped area would be established on the steep slope between the two levelled areas on the Montenery Site. Both of the proposed housing layouts would maintain pedestrian access across the sites and include, where possible, housing

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<sup>6</sup> Extracts of the Design Guide are within part 7 (pages 42-44) of the ID-APP9 and referred to within the evidence - see paragraph 7.25 of the SoCG, and ID-LPA5 paragraph 3.1.4

<sup>7</sup> See ID-LPA3 Appendix 5 and ID-LPA6 Appendix D

<sup>8</sup> See page 19, part 3 of ID-APP9

<sup>9</sup> See page 11 of the SoCG [ID13]

that would face onto and be accessed from existing highways. The SoCG describes the steps taken to arrive at the proposed schemes.<sup>10</sup>

### **The Case for Gleeson Homes & Regeneration**

23. The appeal proposal is to build 387 dwellings on a site within the built up area of Sheffield that has lain vacant for 7 years. Part of the site is acknowledged to be brownfield and the rest has historically had playing fields relating to a college on it.
24. The Appellant is a company that specialises in regeneration and developing sites where mainstream volume builders are not able to operate. Barratt Homes were involved with this site but did not progress. The site and surrounding area has long been identified by the Council as in need of regeneration. The Appellant's proposal provides a realistic means of delivery of housing led regeneration, in a manner entirely consistent with the Framework. The proposals will provide much needed housing of the right type and mix to meet a desperate local shortage.
25. The Appellant's houses will be offered at a low cost and its business model provides for them to be affordable to 90% of the local working population. The company also offers financial products to assist with purchase such as First Buy and various other innovative schemes (ID-APP2 and ID-APP3 Appendix 2). Thought and effort has gone into producing a housing product which Gleeson know will sell in this market area. It was suggested in cross-examination of Ms Whiteoak that the Beswick changes were costly; they actually made the dwellings more saleable. The appeal scheme will provide an immediate prospect of regeneration, investment and employment (Ms Whiteoak's extra documents [ID-9-ID-12]). It will also provide significant contributions to improve the adjacent playing fields at Colley Park through pitch improvements and changing facility provision. The appeal site itself is proposed to provide two further junior football pitches.

### The site

26. The site is located in a sustainable location with good access to shops and facilities. It is highly accessible by public transport.<sup>11</sup>
27. The need for regeneration of the site has been apparent for many years. In 2005 the Council produced a Masterplan setting out what was then viewed as an ambitious aim to transform the area, recognising the need for private sector development partners, through housing development.<sup>12</sup> Public sector funding was also thought to be necessary. Now there is little or no prospect of it being available. A subsequent Masterplan in 2007 also promoted similar development (ID-APP9 page 19) and specifically sought to justify the loss of the vacant playing fields.
28. More recently the Council has identified the site for residential development in the SDF CPS (ID-APP9 page 34) and the 2012 SHLAA identifies the site as contributing 240 units within the next five years, commencing immediately. The

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<sup>10</sup> See pages 7-10 of the SoCG [ID13]

<sup>11</sup> See Section 5Q of the Essential Supporting Documents for the application's Sustainability Report

<sup>12</sup> Inspector's note: see ID-LPA3 Appendix 5 and ID-LPA6 Appendix D

total output from the site, according to the SHLAA is 436 units, more than proposed by the appeal scheme (ID-APP9 page 5).

#### The five year housing land supply

29. It is common ground between the parties that the Council has in the order of 50% of what is required by its Core Strategy as a five year housing land supply. This is before any account is taken of the Framework's requirement (in paragraph 47 of the document) to have the flexibility of an extra 5% or 20% depending upon past performance.
30. As long ago as 2008, when the Council thought it had a five year housing land supply, the Core Strategy Inspector concluded that none of the sites identified in the SHLAA should be discounted on policy grounds (ID-APP9 page 1 and extra pages). With less than half of a five year housing land supply now, the position is all the more acute. No SHLAA sites can rightly be excluded from supply.
31. Because of the lack of a five year housing land supply, pursuant to paragraph 49 of the Framework, the housing policies of the Development Plan are out of date. Paragraph 14 of the Framework is therefore engaged and requires the decision maker to grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework overall (Ms Mansell in cross-examination). The housing policies being out of date is highly material as this is a housing proposal. That does not mean that design considerations and design policy are automatically overridden, but for paragraph 14 of the Framework to mean anything in these circumstances, it must mean that the decision maker is to grant permission unless any adverse impacts flowing from design would significantly and demonstrably outweigh the benefits of the scheme (Ms Mansell in cross-examination). This is possibly one of the most tried and tested paths. The Framework is clearly more permissive of housing than PPS3 paragraph 69.
32. The benefits are manifold. The proposal will bring about a material contribution to a very poor housing land supply position. It will do so by providing housing of the right type which is likely to sell and be deliverable. It will bring about regeneration as a consequence in a sustainable location. It will bring with it economical benefits in terms of employment (direct and indirect) further spending in local shops to assist the viability of those facilities (a long term Council aim as set out in the 2005 Masterplan)<sup>13</sup> and revenue to the Council in terms of new homes bonus and Council tax.<sup>14</sup> The scheme will also provide significant provision and contribution to sports and recreation facilities for the area. This would benefit both occupiers of the proposed development and existing residents.
33. Against this the Council has identified two matters; loss of open space and, related to that, a claim that the design of the proposal is insufficiently good.

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<sup>13</sup> The 2005 Masterplan is in ID-LPA3 Appendix 5 and ID-LPA6 Appendix D

<sup>14</sup> Ms Whiteoak's evidence and extra documents [ID-9-ID-12])

## Open Space

34. The open space issue is in essence whether the land should be protected as open space or developed for houses. It is a question of competing land uses. It is therefore critical to balance the open space issue against the housing need in line with paragraph 14 of the Framework. Permission should be granted unless the loss of open space significantly and demonstrably outweighs the benefits of the scheme (Ms Mansell in cross-examination). The Appellants say that it is beyond question that the loss of open space does not outweigh the benefits of the scheme.
35. The Council identified the site as open space in the UDP. It was at that time playing fields associated with the college that occupied the site. Subsequently in 2005 the college closed and in the same year the Council commissioned a Masterplan from Roger Evans which concluded that the site should be developed for residential purposes in order to bring about much needed regeneration. The 2007 Masterplan followed exactly the same theme. In June 2010 the Council identified the site as a residential allocation in the SDF CPS (ID-APP9 page 34). There were no objections to this (Ms Mansell in cross-examination). The reasons put forward were that the site was suitable and capable of residential development and that contributions to improve Colley Park, together with some on-site sports provision would offset any concerns in relation to "loss" of open space.
36. The next draft (submission draft) of the Development Framework is due out in the early part of 2013. There is no question that the direction of travel is towards allocation of the site (Ms Mansell in cross-examination).
37. All of these matters are fundamental changes in material circumstances since the 1998 allocation of the site as open space in the UDP. The UDP proposals map must, in all these circumstances, be viewed as out of date. It is agreed that the UDP open space policies are, in any event, met (SoCG page 18).
38. It is important to read the Allocations Plan and the UDP policies as a whole. Although there is some dispute as to whether or not the open space policy in the Core Strategy has been met, it is important to note that the Core Strategy refers to open space but does not refer to this site. The Core Strategy does not have any map or plan relating to it that defines areas of land as open space to which its policies apply. The emerging SDF CPS will provide the first opportunity to review the changed circumstances that have come about since 1998. Consequently, to relate the Core Strategy open space policy tests to this site requires something of a leap of faith, particularly given the clear and uncontested intention of the Council that the site becomes a residential allocation.
39. Policy CS 47(a), the only aspect of Core Strategy policy that the Council claims conflict with on the topic of open space, states that development of open space will not be permitted where it would result in a quantitative shortfall in the local area. It is clear that the development itself must result in the shortfall (Ms Mansell in cross-examination). ID-LPA3 Appendix 4 clarifies that the site is classified by the Council as an outdoor sport and recreation site. It is also identified as such in the 2008 open space audit and specifically is not categorised in any other way, for example as amenity green space (ID-APP9 page 30). It is also apparent from ID-LPA3 Appendix 4 that in the Southey and Owlerton area,

- which is not a particularly large area of the City, there is no deficiency in outdoor sport and recreation. In the local area, following cross examination, it is clear the appeal proposal actually increases the amount of informal open space and in that respect cannot be said to infringe Policy CS 47. In relation to children's play space there is no diminution in space, simply an addition of extra people in the area. This does not cause a breach of Policy CS 47. Indeed contributions are being made towards the related policy (UDP policy H16) that is specifically designed to deal with the issue of increasing the population of an area and providing for the open space that population needs.<sup>15</sup>
40. The Council's evidence shows only a reduction in the amount of outdoor sport land as a consequence of the proposal. Nevertheless the reduction leaves the amount of open space per 1000 head of population above the Core Strategy's recommended target (Ms Mansell in cross-examination). Consequently when looked at properly even Policy CS 47 (a) is not infringed, and there was a complete absence of any point made in that regard in the Council's closing submissions.
41. There is then the practical point that the land is not usable playing pitches. It serves no playing pitch function and is incapable of doing so in its current state. Absent some form of development akin to the appeal proposal, the site will contribute nothing to open space in the district or local area. The function as a dog walking area does not reflect any aspect of what it has been allocated for. Further, the definition of open space in the Framework (Annex 2) does not easily describe the space that exists on the site at the moment. It is not of "public value" and it does not offer an "important opportunity for sport or recreation" (Ms Mansell in cross-examination). The visual amenity aspect of the definition is contingent on these matters being present first ("and can act as a visual amenity").
42. Significantly, Sport England does not object to the proposal, and simply wants to see appropriate section 106 mechanisms to secure delivery of the Colley Park improvements.<sup>16</sup>
43. Rather than being a stand alone topic the open space issue is related to the rest of the issues in this appeal. ID-LPA2, the Committee Report and much of her correspondence with the Appellant make it clear that it was because of the view that the proposal would result in the loss of open space that a particular design quality was sought, that was good enough to offset the perceived loss of open space. That particular expression is directly used in ID-LPA2 and correspondence. It was a recommendation of refusal and the whole thought process was based on this, even though the open space concern had no merit. Two obvious consequences flow from this: -
- i) In the planning balance, the Council was looking for enhanced design quality in order to offset a harm which proper analysis demonstrates does not in reality exist (either as policy conflict or otherwise); and
  - ii) Provided the design is viewed by the Secretary of State as being acceptable the open space point cannot stand on its own as an

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<sup>15</sup> The Appellant's Peacock & Smith *PPG17 Statement* is in Section 50 of the Essential Supporting Documents

<sup>16</sup> The Sport England consultation response is in ID-6

independent argument. It must therefore be no more than a restatement of the design concerns.

#### Design – The Policy Approach as a matter of balance

44. Both Council witnesses present the Council's design case in their proofs (ID-LPA2 and ID-LPA5) as a failure to respond sufficiently to the local area or a failure to provide a sufficiently high quality of design, such that it does not improve the area. Their proofs are explicit on this argument, which was Officer led. Ms Mansell fairly accepted in cross examination that this was the Council's case. It was described as a design that was "not good enough to approve" particularly given that she thought there was a need to offset open space concerns. The Appellant says this approach has infected the entirety of the decision making process. It is wrong. There are no open space concerns when properly analysed. Furthermore, the relevant test in relation to design is not to refuse unless there is a sufficiently high quality, but as set out in the Framework to refuse if the design is of poor quality (paragraph 64). Furthermore, in this case where the Council has a significant shortage of housing land, paragraph 14 of the Framework requires a modified approach, such that the design has to cause a significant adverse effect in order to refuse the appeal. This was accepted in cross-examination and returned to at the end of cross-examination.

#### Design – Policy and application

45. The Framework is the most up to date policy guidance to consider in relation to design matters for this appeal. Paragraph 58 sets out a series of points which decisions should aim to ensure are met. Paragraph 58 does not however require refusal if they are not all achieved. The fourth bullet point refers to responding to local character and reflecting the identity of local surroundings. Neither require one to copy. These are important points of interpretation. It cannot be said that there is a need to copy surroundings (or any aspect of these) in order to be acceptable. Certainly it cannot be said that there is a need to copy surroundings regardless of their quality and relevance to a modern housing estate which is specifically designed to meet pressing housing needs in an otherwise highly sustainable manner.
46. The Council's cross-examination sought to draw attention to matters in regard to the Masterplan. Should the development look like the Masterplan? No. Should it respond to it? Yes.
47. Other aspects of the Framework in relation to design are equally important. Whilst paragraph 59 refers to policies and avoiding unnecessary prescription, concentrating on overall scale, density and massing, a similar point is made in relation to decisions in paragraph 60. Decision makers should not attempt to impose architectural styles or particular tastes or requirements to conform to certain development forms or styles where evidence fails to show that it is necessary. No examples are provided in the Framework of where such conformity would be necessary.
48. The Appellant's evidence is that this would most likely be where there is a clear case of high quality design in the area in question, for example a conservation area or around a listed building. One might also have regard to locally designated areas of architectural quality, such as those identified on the UDP Map

3. Their evidence is that that is not the case here. Even if it were the case that Parson Cross had such quality, the decision maker must still look to paragraph 14 of the Framework to consider whether the adverse effects of not following the Council's suggested styles and tastes would result in significant impacts when balanced against the scheme's benefits.
49. As agreed in cross examination the absence of innovation is not a reason that can result in refusal. Further, whilst it is proper to seek to promote or reinforce local distinctiveness, this does not define the basis upon which refusal can be upheld. In paragraph 61 it is clear that visual appearance and architecture, whilst important, are by no means the whole story and that inclusive design goes beyond the aesthetics in order to see how development is likely to work and connect. These latter issues do not appear to be in dispute.
50. Critically paragraph 64 of the Framework sets the threshold against which any refusal can be upheld (Ms Mansell in cross-examination, and re-examination). There has to be poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions. Whilst not the Appellant's case, if it were concluded that some aspects of the scheme were poor, this in itself would not be enough. The scheme would have to be poor overall (Mr Wood in re-examination), and even that would still have to be weighed in the balance as paragraph 14 requires. Indeed as accepted by Ms Mansell in cross examination, a design that was good but which was wholly different from its surroundings would not fail the paragraph 64 test and would not lead to refusal. Improving the character and quality of the area is not therefore the same as copying it, even to a small degree.
51. This point then leads to the heart of the design differences between the parties. The Appellant says that the design of the proposal is not poor design. It improves the character and quality of the area, but not by trying to copy it. It responds to the area by being well mannered, meeting recognised concepts of good design and fitting in - but does not and should not attempt to copy or imitate its surroundings.
52. The Appellant is quite clear that the Parson Cross area is ordinary in architectural terms. Mr Stonard describes it as "disorientating monotony" (Inspector's note: in his e-mail of 28 April 2011 at ID-LPA6 Appendix A / ID-LPA3 Appendix 6) and the 2005 Masterplan as "monolithic". These are not characteristics that warrant replication.
53. Parson Cross is not a Garden City suburb, but a municipal housing estate. By contrast, an example of a true Garden City suburb is the Flower Estate at Wincobank. This is described differently in the UDP with a local character designation (shared by various other areas of the city for a variety of reasons) which the area of Parson Cross does not have. Parson Cross is also described in disparaging terms by Pevsner, unlike the Flower Estate. It is simply not the Garden City suburbs referred to in Policy CS 74.
54. Only the Appellant has analysed this point. The prime reason for that is quite apparent. Parson Cross is anywhere architecture. It is one of the ubiquitous inter-war council housing estates that one can find in all the locations identified in Ms Whiteoak's Appendix 5 (Wolverhampton, Leeds, Bristol, Braintree) and no doubt many besides. The architecture has no Sheffield identify, it has no Parson

Cross identity it is not distinctive to its locality. It was built to meet the needs of the time and the needs of today are dramatically different. It was built to the designs of the time, from what would appear to be a standard house type pattern book. It is in this context that Mr Stonard advises in ID-LPA6 Appendix A the need for new housing to provide a variety of accommodation and that "it would be beneficial if this variation continued into the spaces/areas created, materials deployed and architectural treatment to create distinctive streets and places within the neighbourhood".

55. However, it is at this point that the Council's case becomes particularly confused. On one hand it appears to want a response to character that requires borrowing and repeating certain aspects from the locality. On the other its examples of good design, which the Council says are appropriate for the appeal site, exhibit fundamental differences to the architecture and character of the existing Parson Cross area.<sup>17</sup>
56. The Council has identified a number of ways of developing the site, all of which bear very little resemblance to Parson Cross. The Masterplan from 2005, relied upon so heavily in the Council's case that it is appended to both proofs, shows an approach to the development of the site with three and four storey apartment blocks. The development illustrations show properties that do not follow a consistent building line and present an altogether material change from the surrounding area. The various other schemes referred to by the Council as being "good" forms of development and suitable to copy as house types for the appeal site are also fundamentally different to Parson Cross. One can see straight away that the house type at Birkenhead and the developments at Norfolk Park, Shirecliffe and Seaton Crescent are fundamentally different to Parson Cross. As are the two schemes approved at Falstaff and the second Shirecliffe development. It seems therefore that the Council's case is facing in two directions at once. Degrees of similarity to the surrounding Parson Cross area are not consistent with the house types and approaches it has advocated as suitable for the site.
57. The Appellant has worked as hard as it can to change the scheme to try to accommodate the Council's concerns. For a marginal site such as this, the last thing the company would want is an appeal. Post application it has been changed twice and each time significantly. The extent of changes has been explained by Ms Worthington. The changes have been welcomed by the Council on each occasion.
58. Most importantly, it is clear that the overall framework of the development is agreed and acceptable. It was broadly agreed from the beginning (ID-LPA6 Appendix A) and by the time of the Committee Report, the broad layout and framework was fully agreed. The access is in the right place, the internal roads are correctly laid out, the disposition and location of landscaping and open space is correct, the perimeter block approach is agreed to be appropriate, houses overlook the open space and landscaping is agreed to be appropriate as per the Committee Report. The message is clear. The basics of the framework are correct. This is significant.

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<sup>17</sup> See ID-APP3 Appendices SW10 to SW18

59. Building for Life '12' focuses very largely on these issues of framework and principle (see ID-APP2). Ms Worthington (see ID-APP2) explains that in her opinion there would be no "red lights" on the 12 questions, and very many "green lights". The Council's score on the old Building for Life (20) was also down mostly to a lack of information, not the quality of the scheme (ID-APP3 Appendix SW6 page 27 and SW7 page 39). It connects with its surroundings and the only topics of dispute are relatively narrow points. Even pre-application, the Design Panel found the framework correct, were comfortable with standard house types in principle and whilst they wanted further improvements, it is clear from the overall tone of the document these were not fundamental.<sup>18</sup> Indeed even when dealing with the first scheme as applied for (not as subsequently amended twice) the case officer described the changes that were sought as "small". The Design Panel has not been asked for an opinion in relation to the scheme at this inquiry.

#### Street Containment

60. The first substantive design point made by the Council is in relation to the containment of streets. The Council's case provides a couple of examples where it is claimed that the streets are not finished off properly. ID-LPA6 Appendix H attempts to show what he describes as space leaking out of the corners of part of the Colley Site. Of course immediately behind this part of the site is existing property. In addition the corners have garages located within them and the spaces that seem to cause him such concern are not wide. A further example provided by Mr Stonard also has part of the proposed development behind it, a fact not shown on ID-LPA6 Appendix I. This is a modest point and one which on analysis does not stand up. Examples that he has provided as being good design, such as Seaton Crescent contain exactly the same sort of point.<sup>19</sup>
61. Also in relation to streets he complains in a couple of instances of the termination of the street focussing on a garage between houses. These garages provide a relatively narrow gap between the houses and depending upon the position and angle of view, the houses themselves are perfectly visible at the ends of the streets in question.

#### Street Hierarchy

62. In relation to this issue, it is important to note that all of the streets within the proposal will function at local estate road level. We are not talking about primary or even local distributor roads of the sort presented by Wordsworth Avenue or Yew Lane. Consequently the hierarchy is within a narrow band. Mr Stonard's proof (ID-LPA5) defines what he says needs to be done. He suggests that there is a need for "subtle differences" of hierarchy and a "degree of consistency" but with "sufficient difference" to allow orientation.
63. The Appellant has sought to define hierarchy by reference to the widths of streets, the number of footpaths and the set back between the properties. It is not necessary for all of these issues to be present in each case. The hierarchy of streets is also defined by the gateway features created by side garden walls

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<sup>18</sup> Inspector's note: the Sheffield Sustainable Development and Design Panel response is ID-LPA6 Appendix E

<sup>19</sup> See ID-LPA6 Appendix W

providing a slight narrowing at the entrance to different areas. The presence of footways on both sides of the street will automatically define a different character compared with a street that has a footway on only one side or a street that has no footways at all, but shared surfaces. Mrs Worthington's proof (ID-APP2) shows the street widths and the set backs. It also identifies the approach to different footways. The hierarchy approach is not spoiled by the fact that in some of the tertiary areas there is a slightly greater set back for part of the street making the width between properties similar to some of the secondary streets. The total treatment of the street in the tertiary areas without footpaths and with traffic controlling design variations will be noticeably different and it will be the overall building line that will define a perception of street width. There can be little doubt that the subtle differences sought by Mr Stonard are achieved.

64. The Council's apparent insistence upon having street trees to assist in defining hierarchy is difficult to understand. It seems to have been borne of comment made in 2005 in the Evans Masterplan, notwithstanding that street trees are not present in the surrounding area at all. It is also clear that the Council's correspondence has been somewhat equivocal on this point, saying that trees within the street **or** in private gardens would be appropriate.
65. The presence of trees, whether in gardens or otherwise is not the primary means of differentiating between street hierarchy.<sup>20</sup> In any event it would appear that the Council's landscape department is completely comfortable with landscaping from the terms of the Committee Report. Trees are proposed next to the street, particularly on the principle road, which will be subject to covenants.

#### Building Lines

66. Policy in relation to this topic makes it clear that building lines do not have to be straight and level. By Design talks about common building lines, alongside projections and set backs which it explains can be allowed for without undermining the principle of continuity and can indeed soften the public realm (ID-APP9 page 39). The Design Guide refers to both alignment and set back and importantly says "the overriding aim is to provide enough continuity and coherence to allow for variations from one plot to the next without creating a visually fragmented street scene. There must be a balance between variation and continuity" (ID-APP9 page 43). The Council itself in correspondence has asked for a "relatively level" building line and through the iterations of the scheme this has been made more and more linear. Each iteration has been acknowledged as an improvement.
67. From analysis of the points raised by the Council, it appears that the greatest concern on this topic relates to plots 1-9 on the Colley Site. These houses are not adjacent to any existing houses. The part of the site that they are on is tapering. The frontages and ridges run in parallel and the degree of variation is by any standard modest as set out in Ms Worthington's evidence (ID-APP3 Appendix SW24). It is interesting that both parties rely on the same points of reference. It is a matter of metres. Looking to the Colley Site layout plan – is it linear or jumbled? It is as linear as it needs to be.<sup>21</sup>

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<sup>20</sup> Inspector's note: see ID-APP3 Appendix SW19

<sup>21</sup> Inspector's note: see ID-APP3 Appendix SW23

68. Quite telling of the Council's case is the clear inconsistency in Mr Stonard's evidence on this and other topics, between his criticism of the appeal scheme and his praise of other schemes he puts forward as good examples. Norfolk Park is a particular example that shows a building line much more relaxed than that proposed in the appeal site. So does Seaton Crescent. The Falstaff scheme is similarly variable.<sup>22</sup> A common thread of the Council's case is criticism of the appeal scheme whilst praising other developments that exhibit similar traits often much more markedly.

#### Gateways/Pinch Points

69. It is clear from the small plan put to the inquiry by Mr Stonard that the narrowings in the street he is concerned about occur where a corner is turned, a garden is located behind the house and the garden wall is brought forward to a line consistent with other properties along the street that the garden wall runs parallel to.<sup>23</sup> These do not occur in random places. They are at the entrances to roads of a different hierarchy, wherever the design properly allows. Indeed they assist in defining the hierarchy. They are at the entrances to the courtyard areas and at the entrances to the secondary roads from the primary roads (Ms Worthington in evidence in chief).

70. The Design Guide specifically accepts the principle of back garden boundary walls alongside streets. Its advice is that they should be of high quality. The scheme shows landscaping with trees and climbing plants where these features occur. By Design welcomes gateways signing a transition between different areas.

71. Mr Stonard in cross examination agreed the principle of gardens adjacent to streets behind walls. The difference between the parties is the execution of detail only. Interestingly the Council's good design approach at Falstaff exhibits these characteristics equally with the appeal scheme. Falstaff was approved at the same Committee as the appeal scheme. The local planning authority put them forward as good design. We do not disagree – but it is a matter of consistency.

#### Boundaries

72. Design policy on this topic notes that even signage or paving can be sufficient to indicate the difference between private and public spaces (By Design). Mr Stonard's proof (ID-LPA5) at paragraph 3.3.1 points out no more than boundaries work best if they are physical.

73. The edges of the site facing the existing dwellings have hedges and solid boundary treatment in one form or another. Within the site itself, boundary treatment is provided through a combination of surface materials and planting. To the rear of properties, fences are proposed. The landscape plan in the ID-APP9 shows the overall package of boundary treatment.<sup>24</sup> The Appellant is quite content that this is both safe, appropriate in terms of designing out crime and will allow ownership of a wider not a narrower area of the street. The company knows it is acceptable to purchasers and know it will sell. Again, there is the

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<sup>22</sup> Inspector's note: see ID-LPA6 Appendices U and W, and ID-APP3 Appendices SW14, SW16 and SW18

<sup>23</sup> As annotated on ID-4

<sup>24</sup> Inspector's note: ID-APP9 section 12, with detailed drawings in ID-5 and copies of the original drawings in Parts 5I and 5J of the Essential Supporting Documents

continuous theme of several of the alternative schemes referred to by the Council exhibiting no boundaries to the front of properties. It is also clear that many local boundaries within Parson Cross have been removed in order to allow for the requirements of modern day living. Drives and garages have been put in and boundaries have been taken out in a variety of locations. Indeed the location described by Mr Stonard as most bleak (the flats on Remington Road) would appear to be, in part, described as such because of the maintenance and consequent monotony of the hedges as their boundary treatment.

#### Roofscape

74. The Design Guide deals with roofscape in the same policy section [Inspector's note: paragraph 3.24 of ID-APP2 addresses Design Guide Section S1.9] as it deals with boundary features, facades, footways and various other items. The policy requires that they run "more or less in parallel". It goes on to describe that they should be "roughly parallel" and seeks to avoid frequent differences in orientation and continues that "a sufficient number of elements in the street should be aligned more or less parallel and have relatively continuous lines". Parallel is not the same as following a continuous single line. It allows for a degree of set back. It is apparent from consideration of the appeal scheme that ridges and façades run parallel to one another in the street scene. This is shown clearly in ID-APP3 Appendices SW23 and SW24. Once again the Council's own examples of good design exhibit ridges that run in the opposite direction to the surrounding properties such as at Shirecliffe. It is difficult to see how this presents the "harmonious rhythm" apparently required according to ID-LPA5. The difference of approach in terms of what he likes when it suits him becomes ever more apparent when the Council's case unfolds.

#### Standard House Types

75. The Council's criticism here is now somewhat lukewarm. When pushed in cross examination, Mr Stonard claims not to require houses that reflect those in the surrounding area at all. It is clear his examples of "good" design certainly do not do this. He claims to be comfortable with standard house types in principle. When asked what he wants changed to standard house types he initially described this as the "dressing" of the house. When it was explained that this therefore meant there was a modest difference between the Council's case and the Appellant he reverted to wanting more, unspecified changes to the houses.
76. The Appellant's position is that there is nothing wrong with standard house types in this location. Parson Cross is itself built of standard house types. The house types chosen are well mannered and fit in. Most particularly they are used in a way which is properly reflective of all of the points made by the Council in terms of building line, roofscape, streets and street hierarchy. The Appellant has, through the course of that application, moved houses around and matched pairs, created symmetry (which is accepted by the Council) and removed small irregular groupings that were initially apparent in earlier versions of the proposals. Put simply the Appellant has already moved a considerable distance to address the Council's concerns, yet the Council's concerns at the end of the process are expressed in almost identical terms to those at the beginning. What one can draw from this is that any refusal of the appeal would at best lead to a further long and painful journey towards trying to achieve housing delivery and regeneration on this site, at worst it could prevent the site coming forward.

77. Particular architectural features that were initially expressed as areas of grave concern (and indeed perpetually throughout the course of consideration of the planning application) now appear to be suggested by the Council to be relatively inconsequential matters. These topics (porch roofs, wood cladding, raising the eaves of houses by a brick or three and the colour of windows to grey) are without question topics of unsubstantiated subjective taste. The Appellant says that the principal reason the Council are no longer pressing for these items to be added to the standard house-types (otherwise agreed in principle) is because the Council recognise that to do so would be so obviously running counter to paragraph 60 of the Framework, that it would be indefensible. Nevertheless these points have been symptomatic of the response from the Council in negotiations and underlie its desire to have a variation from standard house types.
78. In a similar manner, the Council's concerns regarding windows seem to have almost disappeared from its current presentation of case. When it has been pointed out to the Council that the window proportions are remarkably similar to other schemes that it puts forward as examples of good design, the point seems no longer to be pursued, or at least with no vigour. Indeed, when one looks for example at the Shirecliffe scheme offered as an example of good design, with its window hierarchy in reverse, it is understandable why the points are put now with little conviction. Again, this point falls squarely into the category described by paragraph 60 of the Framework in terms of imposing architectural styles or tastes, yet underlies the discussions over design changes and the house design.

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#### Plot 111

79. One point of detail remains in relation to plot 111 of the Montenev Site.<sup>26</sup> The issue in relation to levels and the potential for overlooking from the footpath has been explored in detail. The Appellant is quite content that it has been demonstrated to be acceptable and it is notable that there is no reference to it in the Council's written evidence to this inquiry or indeed the Committee Report. The current landscaping proposals address amenity issues in relation to this aspect of the site. Actual proofs do not refer to any concern - it is only in appended correspondence.

#### Conclusions for the Appellant

80. There is an acute shortage of housing in Sheffield. There is a particular need for regeneration of the appeal site. The Appellant is prepared to build houses and deliver them quickly and at a price point which makes them accessible to local people, where nobody else has come forward to do so. The company's ability to deliver is however linked to viability, and viability relates not just to the costs of building but also the confidence of being able to sell the properties. The Appellant has moved significantly away from its initial design approach to this site and has produced a scheme which is appropriate for the location, pays regard to its location and is appropriately well designed.

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<sup>25</sup> See ID-LPA6 Appendices P to Y

<sup>26</sup> As described by drawings that include ID-8

81. It does not fail the test in paragraph 64 of the Framework of being poor design. The Council accept that the framework of the development of the site is appropriate. In the circumstances of the benefits of development, the out of date nature of key elements of the development plan which therefore engage paragraph 14 of the Framework and the consistency with design policy, the Appellant says that the balance is clearly in favour of the grant of planning permission.
82. Significantly however the Appellant points out that the Council's approach to determination of the planning application in this appeal was in error. Firstly, this was because there was felt to be harm to be overcome in relation to open space matters such that a particularly high quality of design was needed and secondly because regardless of this point, proposals cannot be refused because the design is not sufficiently good to approve, only because it is poor. The Council's balancing exercise was faulty when determining this appeal application because it fundamentally misdirected itself regarding the correct policy approach.
83. Relevant to the overall balance in this case is the very low level of public opposition to the scheme. Only one person has spoken at the inquiry, and on rather narrow topics. In contrast there is already substantial interest in buying the homes, before any formal marketing of the site (148 expressions of interest).
84. For all of these reasons the Appellant respectfully asks that approval of the Appeal application is recommended to the Secretary of State and that the Secretary of State grants planning permission.

### **The Case for Sheffield City Council**

85. By this appeal permission is sought for 'the erection of 387 dwellinghouses, provision of public open space, formation of 2 playing fields, landscaping and associated infrastructure on land at Remington Road, Montenev Road and Morrall Road, Sheffield, S5 9AF'. The application is a full application with details of layout and house types and locations.
86. Permission was refused by the West and North Planning and Highways Committee of Sheffield City Council on 17<sup>th</sup> April 2012 with the decision notice dated 18<sup>th</sup> April. Permission was refused for two reasons. However, the first reason was later withdrawn upon further material being provided by the Appellant and the following sole reason for refusal remains extant:

'The Local Planning Authority considers that the proposed house types, their position and form within the site(s) and the proposed streetscape across the site(s) fails to respond sufficiently to the character and identity of the surroundings, fail to take the opportunity to improve the character and quality of the area or to provide innovative housing such that the scheme does not represent a high design quality that utilises high quality materials such that it will not be visually attractive as a result of good architecture and will not enhance the neighbourhood. It is therefore considered contrary to Policy BE5 of the UDP, Policy CS74 of the Core Strategy and guidance within the National Planning Policy Framework. On this basis, it is also considered

that the design and sustainability of the development is insufficient to offset the loss of open space contrary to Policy CS47 (a) of the Core Strategy'.<sup>27</sup>

87. The site lies within the Parson Cross estate, and within the Main Urban area of Sheffield. The site falls into two sections which have become known as the Colley Site (to the south) and the Montenev Site (to the north):
- (a) The Colley Site – a 7.70 hectare site bounded by Remington Road to the north-east and north-west, by Remington Avenue to the south-west, together with a cleared area of land and the corner of the Wordsworth Tavern site, and by the rear gardens of properties at 505 to 539 Wordsworth Avenue and the Remington Youth and Community Centre to the south-east. Some of the original road infrastructure has been retained on site but the remaining land comprises rough grass with occasional scrub, with some trees and shrubs on or near some of the boundaries;
  - (b) The Montenev Site – a 5.37 hectare site bounded by Montenev Road to the north, Morrall Road to the west, Colley Park to the south and the rear gardens of properties at 12 to 28 Montenev Gardens to the east. There is a significant change in topography across the site with the intersection of Montenev Road and Morrall Road forming the highest point with views eastwards across the City. It is now characterised by two large relatively flat areas that are separated by a steep banking that runs north-south across the centre of the site with further banking on the north, south and western boundaries between the site level and the adjacent roads. There are some largely self-seeded small trees and much of the remaining area is rough grass, with areas of hardstanding remaining in some locations.

#### The reason for refusal

88. Mr Sagar in cross-examination made two attacks upon the reason for refusal. Recognising the primacy of the design issue in this case, focus was placed upon the second half of the reason relating to open space to allege that the design concerns were informed by and reliant upon the open space aspect of the reason for refusal. Mr Sagar sought to establish that if the open space part of the reason for refusal were dismissed the design part of the reason for refusal would fall away as contingent upon it. This was much of the focus of the cross-examination of the Council's planning witness.<sup>28</sup>
89. Cross-examination of the Council's design witness explored the meaning of 'and' and 'or'. In respect to the word 'also', the local planning authority clearly expresses itself in the reason for refusal to have considered that the appeal proposals fail to sufficiently respond to their surroundings to meet the objectives of clearly cited local and national policy. The reason for refusal goes on to observe 'also' that the appeal proposals fail on open space grounds and the design does not mitigate that failure. Mr Sagar questioned where the consideration of open space and design come together in policy or guidance and answered his own question by citing the unadopted Fluid masterplan of 2007

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<sup>27</sup> The reason for refusal as it appeared on the Decision Notice contained a typographical error which has been agreed and resolved between the parties.

<sup>28</sup> The last sentence of the reason for refusal reads: 'On this basis, it is also considered that the design and sustainability of the development is insufficient to off set the loss of open space contrary to Policy CS 47(a) of the Core Strategy.'

where the need to lose open space was hoped to be mitigated by good design (ID-APP9 page 19).

90. Mr Sagar also attacked the drafting of the first half of the reason for refusal to allege it addressed the wrong test in national policy. Recognising, as Mr Stonard agreed, that the test in paragraph 64 of the Framework is refusal in cases of poor design Mr Sagar focussed upon the phrase 'respond sufficiently' to allege that the reason for refusal was addressing whether the design was 'good enough' rather than poor. The reason for refusal adopts the terms of Framework paragraph 58 (fourth bullet) clearly. Paragraphs 58 and 64 require design to 'respond', not reflect, to its locality to take the 'opportunity' to 'improve' neighbourhoods. It is right that it does so. The local planning authority's design witness was clear that the test was 'poor' design and states so in terms in his proof (ID-LPA5) and that such a test was a hurdle test to be cleared by the appeal proposals: is the design sufficient to not be poor.<sup>29</sup> Indeed this reflects the balance and judgement exercise which was so often discussed in the cross-examinations of both Ms Worthington and Mr Stonard. Balancing the factors of design is the appeal proposal considered to be not poor design?
91. The Barratts' scheme legacy was stated by Ms Worthington to have been recommended by the local planning authority to the Appellant. Ms Worthington agreed in cross-examination that none of the witnesses before the inquiry actually possessed first-hand knowledge of how the Barratts structure was carried forward. The Council agreed at an early stage that the layout of the development was primarily determined by the topography of the sites and by the position of existing roads on the sites and access points onto the highways network.<sup>30</sup> It was this layer of fundamental structural layout which was carried forward from the previous Barratts application on the site. Otherwise the number and type of dwellings proposed for the appeal sites has changed substantially and significantly. The location of the open space provision on the Colley Site was revised in the course of the planning application to create a better relationship with Colley Park. Though the matter has reached, on the Appellant's description, a point of 'impasse' it is noteworthy the extensive cooperation and consultation between the parties in the application process which has narrowed the issues.
92. Appendices within ID-LPA3 and to ID-APP3 illustrate the extent of correspondence between the local planning authority and the Appellant (and latterly its representatives from Peacock and Smith). The local planning authority has consistently raised in correspondence the same issues regarding the design and layout of the appeal sites.<sup>31</sup> The local planning authority has provided design examples from elsewhere to the Appellant at two separate stages despite the Appellant's highly prejudicial and colourfully phrased response to the local planning authority's initial design example.<sup>32, 33</sup> Ms Worthington suggested that the Appellant remained confused as to what the local planning authority considered would provide a design solution for the site and gave her

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<sup>29</sup> Paragraphs 2.0 and 2.1 of ID-LPA5.

<sup>30</sup> See ID-LPA6 Appendix A / ID-LPA3 Appendix 6

<sup>31</sup> ID-LPA3 Appendices 6, 7 and 9

<sup>32</sup> ID-APP3 Appendices SW7 and SW10

<sup>33</sup> ID-LPA3 Appendix 8

account of meetings with the local planning authority in her evidence in chief. It should be noted that the guidance in the Framework is clear that Councils cannot and should not be overly prescriptive.<sup>34</sup> In this light it must be remembered that despite the local planning authority's engagement with the Appellant, it cannot design its scheme for the company. The Appellant cannot have its cake and eat it on the issue of prescription.

93. The Council acknowledges that the appeal proposal would help to address the City's housing land availability. This position was clear in the evidence of Ms Mansell and in the report to Committee which accompanied the application.<sup>35, 36</sup> The local planning authority does not have a 5 year housing land supply and in line with paragraph 49 of the Framework Ms Mansell accepted that the local planning authority's housing supply policies cannot be considered up to date.
94. In opening, Mr Sagar stated that since the local planning authority does not possess a five year housing land supply there is a presumption in favour of granting the appeal proposal permission. The Appellant's case reflects the former PPS3 paragraph 71 presumption in favour of permission on the basis that paragraph 49 of the Framework activates paragraph 14 of the Framework where the plan is silent, absent or relevant policies are not up to date. Ms Mansell remained resolute during cross-examination, that as housing supply was not at issue in this appeal (it is agreed this site is appropriate for housing) the housing supply policies which are out of date by operation of paragraph 49 of the Framework do not qualify as 'relevant policies' for the purposes of Framework paragraph 14.
95. Mr Sagar's interpretation is 'innovative', in a way that the Appellant's appeal proposals are not, but the simple point remains that the PPS3 paragraph 71 presumption could easily have been carried forward into the Framework in terms. The Framework is the source of planning post-March 2012 and it is not credible for the Appellant to suggest that the famous/infamous PPS3 paragraph 71 presumption has been carried forward in this two stage iteration suggested by Mr Sagar. The Government has not 'forgotten' the former PPS3 presumption, it has chosen not to enshrine it in the Framework.
96. The appeal sites extend over two UDP land use designations. The formerly developed parts of the appeal sites are allocated as a housing area with the remainder of the land designated as open space. With regard to open space policy compliance is agreed with the Appellant except for Policy CS 47(a). The appeal sites presently comprise 7.84 hectares of open space and the appeal proposal would deliver 1.97 hectares of informal open space and 1.16 hectares of formal open space (3.31 hectares in total). This results in a loss of 4.53 hectares of open space overall and a net loss of 6.68 hectares of formal open space. This would exacerbate an existing shortage of open space provision in the locality and result in less than 4 hectares of open space per 1000 population contrary to CS 47(a) as per the reason for refusal.<sup>37</sup>

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<sup>34</sup> Paragraph 59 of the Framework

<sup>35</sup> Ms Mansell in evidence in chief and cross-examination

<sup>36</sup> ID-LPA3 Appendix 2

<sup>37</sup> Supporting text paragraph 9.26

97. During the application process the Council acknowledged the appeal sites' promotion for residential development in the Masterplan and considered the application in light of this goal, the compensatory improvements agreed with the Appellant and the quality and sustainability of the proposal. It remains the Council's view that the agreed improvements are not sufficient to overcome the significant loss of open space in light of the failure of the scheme to address design quality objectives. It was agreed in cross-examination that the formal open space use of the appeal sites (under which it attracted its development plan designation) has discontinued.
98. It was also agreed that informal use of the appeal site as open space continues to this day. Ms Mansell agreed in cross-examination that the designation must have less weight considering the 'facts on the ground'. But Ms Mansell remained resolute that the local planning authority must consider applications in line with the development plan (it is a legal requirement from legislation and not only policy) and as such that designation must be considered. Mr Sagar in opening the Appellant's case made much of 'what the site actually is'. In that light, the reality that the appeal site has 'devolved' from formal open space to informal space used by the community of Parson Cross must be relevant to the purpose the appeal site currently serves 'on the ground', even though there is no public right of way across it or formal sports provision.
99. In line with the reason for refusal the Council considers that the proposal fails to respond sufficiently to the character and identity of the surroundings and that it fails to comprise a standard of urban design and architecture that is deemed to represent a sufficiently high quality within the City such that it fails to take the opportunity available to improve the character and quality of the area, contrary to policy BE5 of the UDP and Policy CS 74 of the Core Strategy and the relevant guidance in the Framework. These shortcomings have been consistently highlighted by the Council in correspondence and discussion with the Appellant company and its representatives.<sup>38</sup>

#### Policy BE5 of the UDP

100. The terms of policy BE5 are clear:  
'Good design and the use of good quality materials will be expected in all new and refurbished buildings and extensions. The following principles will apply:  
Physical Design  
(a) original architecture will be encouraged but new buildings should complement the scale, form and architectural style of surrounding buildings; ...'
101. The evidence of Ms Whiteoak was clear on the Appellant's approach to its schemes. A model, circumscribed by tight financial margins, is pursued across the country and standard house types used. Materials can inform the specific development, so for instance a visitor to the Appellant's site at Bolton-on-Dearne would see the same house types but not necessarily in the same brick colour as will be used on the appeal site. Ms Whiteoak was clear that such is the tightness of the Appellant company's operating margins in order to sustain a reasonable profit every revision of the appeal proposal has required a reassessment of

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<sup>38</sup> ID-LPA3 Appendices 6, 7 and 9

viability. This includes the revision of the scheme to create more uniform placing of house types (to prevent 'scattering') which Ms Whiteoak (in cross-examination and paragraph 5.39<sup>39</sup> of ID-APP4) was clear she opposed as having an effect on 'saleability'. It was put to Ms Whiteoak that the LPA's wish for simplification of architectural treatment was less expensive than the current treatments. Ms Whiteoak was clear that the presence of features criticised by the LPA was a 'saleability' factor for the Appellant and their removal would affect viability. In this light Ms Whiteoak's evidence at paragraph 3.05 of ID-APP4 as to the Appellant's redesign of a house type on its site in Beswick, Manchester where every example of one house type on a 175 house phase was subject to significant redesign of the kitchen and living space was all the more startling.

#### Policy CS 74

102. The terms of CS 74 are clear:

'High quality development will be expected, which would respect, take advantage of and enhance the distinctive features of the city, its districts and neighbourhoods, including: ...

- d. the distinctive heritage of the city, particularly the buildings and settlement forms associated with:
  - i. the metal trades (including workshops, mills and board schools)
  - ii. the City Centre
  - iii. Victorian, Edwardian and Garden City suburbs
  - iv. historic village centres and the city's rural setting. ...'

103. The Appellant's position with regard to this policy has been far from clear. A plain reading of ID-APP4 (as submitted) at paragraph 5.05 is clear that Ms Whiteoak considers the Parson Cross area to be a Garden Suburb (though one of poor architectural value in her opinion). In evidence in chief Ms Whiteoak engaged in wholesale rewriting of this paragraph to reclassify Parson Cross as a 'Municipal Council Housing estate of the inter-war/post-war period' which draws influences from the Garden Suburb movement (including the Flower Estate). Ms Whiteoak went further in cross-examination to say that she considered there to be only one Garden Suburb in Sheffield (the Flower Estate) in spite of the clear statement of Policy CS 74 (d)(iii) that there are plural garden suburbs to be taken account of in design terms.

104. This was her clear evidence which transmogrified under Mr Sagar's insistence to an 'awareness' of only one garden suburb. All this linguistic contortion was engaged in to try to resile from the position that Parson Cross (whatever its architectural value) is a Garden Suburb in the terms of Policy CS 74. It should be considered that this flows from a realisation on Ms Whiteoak's part that Policy CS 74 requires a consideration and response to Garden Suburbs no matter Ms Whiteoak's consideration of its quality. Ms Whiteoak sought to support this degrading of Parson Cross by referring to a UDP map which highlights the Flower Estate as an 'area of special character' whilst not highlighting Parson Cross. This is a non-point. The UDP map is from a separate plan to Policy CS 74; 'areas of special character' on the map are not addressed or considered in Policy CS 74.

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<sup>39</sup> No two houses the same next to each other.

105. In cross-examination Mr Wood accepted that Policy CS 74 does not prescribe a qualitative judgement when considering the forms of development laid out in Policy CS 74 (d)(iii). He did not resile from this clear answer even after re-examination. With regard to Mr Wood's evidence he addressed the policy context for Montenev Gardens (August 1995) and considered the development plan position to be largely the same as now. However, he fairly conceded that the guidance at the time might have been more relaxed.
106. In relation to whether Building for Life (20) and Building for Life '12' should be appeal documents, Building for Life '12' is current and largely repeated in ID-APP2 but should be an inquiry document. Building for Life (20) is superseded but is explicitly referenced in the supporting text to Policy CS 74.<sup>40</sup> There is clear evidence from Mr Stonard that an assessment under Building for Life (20) informed the dialogue between the Appellant and the LPA at the application stage.<sup>41</sup>
107. Ms Whiteoak's evidence underwent significant change during evidence in chief, both in relation to Policy CS 74 and her clear statement in paragraph 5.10 of ID-APP4 that the Parson Cross area was of such little architectural merit that it did not 'merit a response' in the design of the appeal scheme. This was redrafted to be that the architecture of Parson Cross did not merit a 'reflection' in the appeal proposal.
108. The other difference between reflection and response is that previously Ms Whiteoak's position in paragraph 5.10 was not Framework compliant and as redrafted could now be read as compliant. To support her rewriting of ID-APP4 Ms Whiteoak referred to a series of paragraphs in it which she says illustrate response though not reflection on the part of the appeal proposals to Parson Cross.<sup>42</sup> It should be noted that these paragraphs she relies upon do not pick up the 'response' baton and indeed paragraph 7.14 includes a mangled supposed paraphrasing of the local planning authority's report to Committee.<sup>43</sup> In fact Ms Whiteoak's 'quotation' was a mis-quotation which included an invisible ellipsis and changed entirely the Council's position from what the report actually said. The report says that the local planning authority considers that the appeal proposal wrongly includes characteristics not present in the locality whilst in Ms Whiteoak's evidence this sentence had transformed into the local planning authority criticising the Appellant for failing to include in the appeal proposal features that do exist in the locality. Ms Whiteoak's mis-quotation seeks to reinforce the Appellant's allegation that the local planning authority has been overly prescriptive in requiring certain design features in the appeal proposal contrary to Framework paragraphs 59 and 60.
109. Ms Whiteoak presented an economic benefits table to the inquiry which sought to illustrate, amongst other things, how spending by the inhabitants of the proposed development would contribute to the local economy. It should be acknowledged that this was rough and ready document produced under time pressures. Mr Sagar made clear in evidence in chief of Ms Whiteoak that it was

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<sup>40</sup> See ID-19 and ID-20

<sup>41</sup> Paragraph 2.5 of ID-LPA5

<sup>42</sup> ID-APP4 paragraphs 5.49, 5.52, 5.55 and 7.14

<sup>43</sup> ID-LPA3 Appendix 2 page 23

not possible to approximate or disaggregate the proportion of 'spending power' on the new estates which would be indigenous and therefore not new to the city. In cross-examination it was explored with Ms Whiteoak what proportion of the appeal site's residents might be new to the area and what proportion would be existing residents. To be fair, Ms Whiteoak echoed in explaining the difficulties in carrying out such an exercise but she was of the opinion that most residents would be from the area and certainly from Sheffield in any event.

110. Ms Whiteoak also gave detailed evidence on the costs to the Appellant company of various boundary treatments being provided across the appeal site: from £81,271 for hedging throughout to £309,850 for railings throughout.
111. Ms Whiteoak also put in a spreadsheet illustrating that around 150 purchasers have expressed an interest in the appeal site houses.<sup>44</sup> This is apparently the highest level of interest the Appellant received on any site which is as yet not actively advertised. It is to be welcomed that the site is attractive to potential residents and that it is correct that it should be housing. However, in design terms it would be wrong to equate popularity with quality. Though the parallel between popularity and 'saleability' is clearer.
112. At paragraph 6.19 of ID-APP4 Ms Whiteoak presents evidence on the relative security of the Montenev Gardens site which neighbours the Montenev Site. This suggestion is based upon information gleaned from the Police.uk website. In the month of July 2012 there were 267 crimes within 1 mile radius of the appeal site whilst on Montenev Gardens (within that radius) there were none. This information is not contextualised to account for what % of the radius area the approximately 40 dwellings on Montenev amount (Ms Whiteoak said it was in the 100s) and does account for what impact (positive or negative) the closed cul-de-sac nature of Montenev Gardens (in contrast to the appeal proposals) has on crime levels. The point is made to draw parallels between the proposed 'open' boundary treatments on the appeal site and Montenev Gardens. Frankly, this is simply a shallow attempt to analyse the issue and illustrates no causation between low crime levels and the Appellant's preferred lack of formal boundary treatments.
113. The Appellant has a highly developed range of purchase models for its houses. The details of these were laid out in ID-APP4 paragraph 2.06 and ID-APP5 Appendix 2. It is admirable that the Appellant seeks to serve and understand its customer base but Ms Whiteoak confirmed in cross-examination that the application of these various models to provide low cost housing (pace her use of the term affordable) across the appeal site could not be guaranteed and was not a factor in the Appellant's site considerations. It remains the case that no affordable housing is currently proposed for the site.
114. With regard to over-prescription and Framework paragraphs 59 and 60, Mr Stonard was clear in his evidence that the Appellant has fixated upon certain architectural suggestions (the use of grey window frames, the omission of overly dominant porches, the use of faux wood cladding) where the focus of the local planning authority's concerns are in the layout of the appeal proposal and the relationships of house types and styles. To use Mr Sagar's idiom, these

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<sup>44</sup> With data protection redaction

architectural features have been set up as an 'Aunt Sally' to attack the local planning authority. To rely, as the Appellant did in evidence, upon the use of the word 'need' in certain correspondence to imply a prescription on the local planning authority's part, is to ignore the well documented intensive engagement between the parties during the application process.

115. The character and identity of an area or a neighbourhood are not simply a product of its architecture but that of a variety of elements including 'streetscapes and buildings... landscaping' (Framework paragraph 58).
116. The Appellant appears fixated upon points relating to the architecture whereas throughout the process the local planning authority's comments have referred to broad issues of townscape characteristics. Specifically, the Council has consistently raised concerns with regard to:

#### Variety

117. Mr Stonard was clear in his evidence that variety is to be welcomed in the streetscape but emphasised two points. The variety which exists upon the wider Parson Cross area is predominantly found in the 'patina' of personalisation which occupation brings. The personalisation of space which he applauded is set against the clear structure of the area which makes that patina legible. Ms Worthington noted that patina takes a long time to establish through years of occupation. Indeed it does, good things take their time and faux-patina cannot be imposed through forced variety.
118. Variety also exists in the built form in the house forms (not a matter of personalisation but rather design in Parson Cross) which Mr Stonard noted and indeed Ms Worthington's 'hipped gable/expressed gable' plan illustrates to be a feature of **considered** layout across Parson Cross so that junctions and views are addressed. Mr Stonard's second point was that an appropriate level of variety can only be read and enjoyed in a streetscene where it is exceptional and stands out. If every feature and every style is everywhere this undermines the legibility of the neighbourhood as nothing stands out.
119. Ms Worthington endorsed, to a degree, this position in answer to Inspector's questions when she considered that the revised layout (although contrary to Ms Whiteoak's preference) was acceptable for not having too much variety with every house different. Where Mr Stonard refers to the monotony of Parson Cross and the need for variety,<sup>45</sup> he balances the criticism of monotony by stating 'this is not to advocate creating wilfull (sic) differences for the sake of it but rather subtle variation underpinned by a standard range of materials and common features'.
120. Variety and monotony are therefore on a spectrum with too much of either a bad thing: it was ever thus in planning. It was clear from the cross-examination of both Mr Stonard and Ms Worthington there was agreement that this was a matter of planning judgement and balance.

#### Streets

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<sup>45</sup> ID-LPA6 Appendix A

121. Mr Stonard was clear that in his consideration the supposed hierarchy of streets (expressed and illustrated in ID-APP3 Appendix SW19) does not materialise in the actual proposed layout. The evidence of Ms Worthington has sought to reframe this issue by emphasising orally that the roads making up the appeal scheme are all estate roads and so differentiation between them should be 'subtle' in any event. Perhaps this reflects what the Appellant thought all along through the application process about street hierarchy. In any event the hierarchy does not actually find expression on the plans where the variety of house types and their projection back and forth from the 'building line' (see ID-APP3 Appendix SW24) leads to a jumble of separation distances so that 'courtyard' streets in the Colley Site are as wide at points as 'secondary' routes.
122. Ms Worthington in evidence in chief and in ID-APP2 explains that there is a 2m tolerance from the building line. This amounts to a tolerance on total separation distance of 4m across a street and a potential 8m of stepping in from the widest to narrowest point of any street (specifics were explored in cross-examination with Ms Worthington at plots 21.5m apart [plots 237 vs 194] and 14m apart [plots 235 vs 192] of the Colley Site). In this context the 'hierarchy' of carriageway width between 5.5m and 4.8m roads (700mm) washes away. The punctuation (or not) of pavements is illustrated by the materials used for road surface, footpath and parking space at the Appellant's site at Bradford (ID-LPA6 Appendix P).
123. Mr Sagar accused Mr Stonard of erecting an 'Aunt Sally' by criticising the Appellant for defining street hierarchy by design style treatment (ID-LPA6 Appendix K). Ms Worthington was clear that she did not think that architecture needed to take part in the definition of street hierarchy. Mr Stonard was clear that he considered that design styles could be a tool in defining that hierarchy. Ms Worthington referred to ID-APP3 Appendix SW2 with its clear road hierarchy across Parson Cross, noting in particular the widths of Wordsworth Avenue and Yew Lane. It is clear that that same form of definition is not available to the Appellant on such a tight area as the appeal sites. In such a case it is reasonable, and once again helpful, for Mr Stonard to suggest that another tool (house style) is brought to bear to define hierarchy.
124. Much time was spent in considering 'street trees' and how they might define the street hierarchy. A regular double line of trees is proposed for the 'The Avenue' on the Colley Site. The local planning authority has suggested such trees for definition and indeed recognised they might be in private or public land. However, Mr Stonard has remained concerned with the Appellant's proposal that they be covenanted and placed on private front gardens. It is not that Mr Stonard suggests they will all be taken a chainsaw to on day one of occupation but rather that without any kind of tool for tree protection or enforceability on the local planning authority's part it is not a factor in hierarchy upon which significant weight can be placed. The Appellant considers that nothing in the private realm, such as shrub planting, can be so protected. Indeed not, but when consideration is given to the importance of street trees as the defining factor of this key street, which is reflected in the title 'Avenue', the Council's concern is substantiated.

#### Building line and definition

125. Ms Worthington says, and Mr Stonard agrees, that building line does not need to be uniform but can have variety. But as with variety generally it is a matter of

balance: if the building line has constant exceptions then there is no building line (see ID-APP3 Appendix SW24).

126. Ms Worthington similarly agreed that the issue of pinch points/gateways was a matter of judgement. There is a plan of pinch points produced by Mr Stonard and agreed to by Ms Worthington.<sup>46</sup> It remains a way of turning a corner. Other ways have been apparent in other sites recently granted permission by the LPA and across the Parson Cross area (see Ms Worthington's plan submitted during evidence in chief).<sup>47</sup> The judgement in this case is whether it is an appropriate way to turn the corner, and whether the number of pinch points on the appeal proposals is a preponderance or an appropriate level. In this regard, consideration should be given to the photographs of the Appellant's site at Bolton-on-Deane and Bradford in ID-LPA6 Appendix O, which illustrate the impact of these pinch points on the ground: exposed side and rear garden fences closing off (yes) but also imposing on the streetscene.
127. ID-LPA5 and ID-LPA6 Appendices H and I raise the issue of poorly defined views at the heads of roads and streets which 'bleed' away in visual terms. Examples are given in the appendices but others exist upon the Appeal plans. The Appellant says the development 'behind' the site will frame and form the view in these cases. This is a matter of judgement, but Mr Stonard was clear in his opinion that this was a weak feature of the streetscene which undermined the appeal proposal.
128. The issue of 'bleed' (i.e. a lack of containment that causes space in the street scene to leak away) was taken up in cross-examination with Mr Stonard to explore whether there was 'clear blue water' between the local planning authority and Appellant on design approaches: such division being a reasonable matter to disagree upon. The Appellant's approach to the inner streets of the development is to have 'open', 'informal', 'shared' spaces with limited or no boundary treatment. The Appellant's approach to Colley Site open space also seems to be to landscape the facing properties and dress the house styles such as 'bleed' (without a pejorative sense) between the two.<sup>48</sup>
129. Similarly, the Montenev Site's frontage to Colley Park is made up of private drives with a County/Rural styling. The Council has raised concerns with the approach to this frontage (e.g. ID-LPA6 Appendix C, bullet point i.) but of course cannot design the scheme for the Appellant.<sup>49</sup> It is correct that the Appellant's layout includes dwelling windows that would provide natural surveillance over the Colley Park (a concern of the local planning authority's), but it remains the case that the local planning authority considers a stronger frontage to this park would be appropriate in line with concepts delineated in the Masterplan (January 2005) paragraphs 4.2.1 and 5.1.1 (ID-LPA6 Appendix D). Of course, **responding** to the Masterplan is not to say it must be **reflected** with multi-storey blocks of flats.

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<sup>46</sup> ID-4

<sup>47</sup> ID-7

<sup>48</sup> This was not raised in cross-examination as a new criticism of the Appellant, as Mr Sagar's re-examination suggested, but to try to provide a clearer understanding of what may be an 'ideological' difference of opinion.

<sup>49</sup> See section 8, page 49 of ID-APP9 and appeal scheme drawing no.342-3e12A

130. This in contrast to the Parson Cross area where very deliberate approach to the building line contrasts the general uniformity with deliberate variations at key points within the townscape (Ms Worthington's plan put in evidence in chief)<sup>50</sup> which aids legibility and character.

Boundaries and front gardens

131. The appeal proposals largely eschew boundary treatments which the local planning authority considers are a positive influential feature of Parson Cross and that are evident in the street scene. Boundaries give owners a clear sense of ownership of their front gardens and the confidence to personalise them so that something like the rich patina of Parson Cross can build up over years of occupation. Simple common boundary treatments also provide a clear unifying factor to a neighbourhood which can be influential in tying together an area creating a coherent character. This would be a powerful feature in counteracting the appeal proposal's incessant variety.

132. Ms Whiteoak considers that without such boundary treatments the neighbourhood is friendlier with a sense of common ownership of the public spaces. Mr Stonard considers that a lack of boundary treatment fails to differentiate the front gardens from the public realms of the scheme and leaves residents living very much behind their front door. It was put to Ms Whiteoak in cross examination that the state of Montenev Gardens (an established estate) with no apparent variety to the fronts of gardens illustrated (ID-LPA6 Appendix Q) that there was clearly no sense of common ownership to the public spaces on such an estate. The only personal embellishment coming in the many marques of motorcar on the drives.

133. Ms Whiteoak contended that use and occupation of the spaces in front of the gardens did not comprise all that made up a sense of ownership of space. The import of this is unclear but in any event when considering the design and visual appeal of the appeal proposal it must be of note that a similar neighbouring form of development has little or no personalisation and little or no apparent sense of ownership to the public spaces. The situation across the wider area has already been alluded to, Parson Cross has variety and personalisation across to its house fronts (a true patina). Indeed an analysis of these personalisations in one street can be found in ID-APP3 Appendix SW38. It is emphasised that faux-individuality cannot be equated with organic community growth and property personalisation. The local planning authority considers that the demarcation of private and public is thereby poor and an opportunity to reinforce a simple characteristic feature of Parson Cross is lost.

134. The Appellant in the evidence of Ms Whiteoak prayed in aid of security and surveillance as reasons to forego clear boundary treatments: fences and hedges prevent clear views. Ms Whiteoak relied upon data from the Police.uk website to illustrate this point at paragraph 6.19 of ID-APP4. The quality of this analysis is criticised above. A Google search does not equal appropriate or compelling evidence.

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<sup>50</sup> See ID-7

### Roofscape

135. The variety of ridge lines across the proposal rejects the characteristic roofscape across Parson Cross which the Council considers is a simple characteristic of the area. Ms Worthington provided a plan in evidence in chief which illustrated, very helpfully in the local planning authority's opinion, the characteristic roofscape of the area. Variation in roofscape in the area does something: it addresses junction and viewpoints and in so doing establishes distinct localities within the townscape and in turn adds to the character and legibility of the neighbourhood. In this case, consideration needs to be given to the question, what do the Appellant's variations do?

### Architectural treatment

136. The simple style of houses across Parson Cross have, in the Council's consideration, a definite and positive character contributing to the sense of place. The appeal proposals use standard house types from the Appellant company's portfolio which in the variety of their architectural treatment fail to complement the scale, form and architecture of the surrounding buildings. The local planning authority has acknowledged throughout the process that it has no issue with standard house types but sought that they respond to the local character and reflect the identity of local surroundings and materials (Framework paragraph 58). Ms Whiteoak's evidence has already been noted to be confused on: responding and reflecting; and, that the locality does not 'merit' a design response/reflection. This is clearly contrary to the Framework and despite her backpedalling reflects the Appellant's attitude to Parson Cross. It can be seen from ID-LPA6 Appendices O and P that the standard product advocated for this appeal proposal (with perhaps different brick colour) is rolled out across the Appellant's other sites.

### Other sites

137. The Appellant has revelled in referring to other schemes permitted by the local planning authority and to other schemes suggested as design examples to the Appellant. The local planning authority was clear that these were provided to assist on design grounds only (no query was raised on viability, tenure and ownership models). Mr Stonard provided bullet point commentary (reproduced in ID-APP3 Appendix SW10) which outlined 'pros' and 'cons' to each scheme. It seems a mite unreasonable to pick up any weak component which is not comprehensively caught by these thumbnail commentaries. The examples are useful in illustrating the diverse range of design responses approved by the local planning authority for sites in similar contexts to the appeal site.
138. The appeal proposals amount to a standard product from the Appellant company which does not attempt to acknowledge the surrounding area. Efforts made by the Appellant, with the Council's guidance, to improve the layout have done little to resolve the underlying failures of the design.
139. Prescriptive design was explored with Mr Wood with regard to Framework paragraphs 59 and 60: 'unnecessary' and 'unsubstantiated' must brook the existence of necessary and substantiated prescriptions and requirements. Mr Wood conceded this but considered it could only apply in Conservation Areas and in relation to Listed Building contexts. Mr Wood was taken to paragraph 14 and

footnote 9 of the Framework which explicitly lays out designations which are to be had regard to in relation to paragraph 14. No similarly prescriptive footnote exists for paragraphs 59 and 60. Mr Wood considered this approach to be overly pedantic and engaging in semantics. But the point is a good one, if Government intended to limit a local planning authority's discretion to have substantiated and necessary prescription to only Conservation Area and Listed Building contexts, then it would have said so. The Appellant invites an interpretation of paragraphs 59 and 60 that would fetter a local planning authority's discretion.

140. The Inspector is therefore respectfully requested to recommend to the Secretary of State that he uphold the refusal of the application by the Local Planning Authority for the reasons stated and dismiss this appeal.

### Cases for interested persons

141. **Mr Paul Hanby – Local resident** Mr Hanby does not object to the general principle of building on the site, but traffic movements on Montenev Road have increased significantly since the Barratts proposal in 2008, and these occur alongside the high levels of on-street parking. The appeal scheme has houses that would be accessed from Montenev Road and would be likely to add to both traffic levels and on-street parking that would obstruct public transport on Montenev Road. Mr Hanby also has concerns regarding possible traffic movements at the Montenev and Morrall Road junction, and that the external construction materials would not be typical of the area.

### Written Representations

142. The appeal questionnaire includes written representations from a number of local residents, including from Mr Hanby who spoke at the inquiry, which were made at the application stage. A written representation was also received as the result of the notification of the inquiry. Points raised include possible adverse effects associated with intensifying the residential use of the area, loss of open space and playing pitch sites on land that is currently used for informal recreation, and a lack of consultation with local residents. The potential adverse effects highlighted include increased noise, cars lights shining into existing windows, on-street parking, pollution, flooding, antisocial behaviour, local health issues, effects on wildlife, visual impact and on the character of the area, employment, highway safety, the local housing market, brownfield regeneration, the availability of local school and nursery places, and living conditions within the development in relation to overlooking.<sup>51 52 53</sup>

143. Two local residents refer to potential benefits from the development through: the prevention of antisocial behaviour; and, the improvement of the area.

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<sup>51</sup> The application's Transport Assessment (as referred to by ID-6, the Officer's report on the application and paragraph 5.62 of ID-APP7) is contained within Section 5W of the Essential Supporting Documents.

<sup>52</sup> The Highway Authority's consultation response is within ID-6. Highway matters are considered on pages 26 and 27 of the Officer's report, which is to be found within the appeal questionnaire and in ID-LPA3 Appendix 2

<sup>53</sup> See Sections 5N and 5U and 5V of the Essential Supporting Documents for the application's Flood Risk Assessment, an Ecological Appraisal of the appeal site dating from 2008 with Additional Ecological Surveys carried out in 2011

## Conditions and Obligation

144. An initial list of conditions is included as Appendix 9 to the SoCG. ID-15 contains the list of proposed conditions that were discussed on the last sitting day of the inquiry. I subsequently circulated my comments for further consideration by the main parties. The re-working of the proposed conditions reflects the guidance in Circular 11/95 that, amongst other things, conditions should be precise, enforceable, necessary and must serve a planning purpose.
145. In the following paragraphs I consider the conditions that have emerged from the above process and that are included in Annex A to this report. Annex A contains the conditions that I recommend should be attached to a planning permission in the event that the Secretary of State is minded to allow the appeal. Both the Appellant and the Council have commented on the proposed conditions and have not raised specific objections in relation to them. The conditions include two modifications (in bold font) that the parties have not had the opportunity comment on. They are in regard to conditions 3 and 10 in Annex A. The additional wording in condition 3 addresses matters that were the subject of representations to the inquiry and is necessary in the interests of good planning. Additional wording in condition 10 is necessary in the interests of clarity and precision to address the implementation and timescale of the improvements it would provide.
146. In addition to the standard condition requiring development to commence within three years of the planning permission, it is proposed that a condition should be imposed which requires the development to be carried out in accordance with the submitted plans. This is important as the submitted plans and drawings define the scope and extent of the development. (See conditions 1 and 2 in Annex A. The list of agreed plans and drawings forming the development is in condition 2).
147. A phasing condition is suggested. This has been modified to require the submission of details to confirm final ground levels across the sites and house treatments, which have currently been provided for the Colley Site in Essential Supporting Document 5AD and in Appendix K of ID-LPA6. These matters are sought in the interests of protecting the character and appearance of the locality. (See condition 3 in Annex A)
148. A number of other conditions have also been suggested in the interests of protecting the character and appearance of the locality. These include suggested conditions in relation to the approval of external construction materials, details of window reveals, the protection of trees and landscaping. (See conditions 4 - 8 of Annex A)
149. A suggested condition addresses the provision of a travel plan. It is necessary for the delivery of sustainable development by facilitating the use of sustainable forms of transport. Other suggested conditions would result in highway improvements that would both facilitate the use of sustainable forms of transport and protect highway safety. (See conditions 9, 10 and 12 - 15 of Annex A)
150. Highway safety and local living conditions (in regard to possible dust emissions and noise and disturbance) would be protected by a Construction Method Statement and a condition to address the times of audible construction and

- demolition works. Conditions are proposed to deal with these matters. (See conditions 11 and 17 of Annex A)
151. Local living conditions would also be protected by proposed conditions in regard to: the provision and management of refuse and recycling storage facilities; and, the implementation of the Flood Risk Assessment. (See conditions 18 and 27 of Annex A)
152. To protect the natural environment and future users of the appeal sites and land elsewhere, conditions are proposed to address potential land contamination and drainage systems. (See conditions 16, 20, 21, 22, 23 and 24 of Annex A)
153. In the interests of sustainable development and energy use, a condition is proposed in regard to the Code for Sustainable Homes. Successful implementation and management of the proposed playing pitches would also support sustainable development through the provision of recreational facilities in the vicinity of where people live, and protect the character and appearance of the locality. Conditions are proposed to address these matters. (See conditions 19, 25 and 26 of Annex A)
154. An executed Agreement under section 106 of the Town and Country Planning Act 1990 (as amended) between the Council and Appellant was supplied on the final sitting day of the inquiry (see ID-16). It was accompanied by ID-17, which provides a summary of the obligations and an explanation of those considered to be necessary for planning permission to be granted.
155. A substantial education contribution would be provided, with £2548 paid in regard to each dwelling for additional primary school capacity. This figure is explained in the Council's education appraisal.<sup>54</sup> Paragraph 7 of the Agreement's First Schedule provides for an affordable housing viability reappraisal, which would ensure that objectives of Core Strategy Policy CS 40 would be met by the scheme. Public open space within the appeal sites would be provided in accordance with the proposals and under the First Schedule of the Agreement arrangements would be made for its maintenance, which would meet the objectives of UDP policy BE6. In addition, a Training and Apprenticeship Scheme would provide for the employment of four apprentices.
156. The Agreement provides for contributions to be made towards outdoor sports and children's play facilities, with ID-17 noting the sums to be pursuant to the objectives of UDP policy H16 and calculated in accordance with the relevant Council SPD.
157. Sport England's consultation response (see ID-6) includes comments by The Football Association. These highlight the need for car parking and adequate changing facilities to be provided at Colley Park to address the additional demand associated with the two new pitches on the Colley Site. Contributions would be made toward pitches and facilities in Colley Park. Part 6 of ID-17 notes these sums to have been agreed between the main parties, and that UDP policy BE12 would be met by the agreed contribution toward public art.

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<sup>54</sup> Appendix 10 of ID-LPA3

158. Planning obligations for this form of development should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would be: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to it. Regulation 122 of the Community Infrastructure Levy Regulations 2010 also establishes tests for the acceptability of making financial provision for works and services.
159. Information has been supplied to demonstrate that some of the provisions put forward by the signed Agreement meet the three policy tests. These are described in paragraph 155 above.
160. However, ID-17 refers to UDP policy CF5 and SPDs that are not immediately evident within the appeal documentation. While the executed Agreement seeks to off-set or to reduce some of the impacts of the development, ID-17 does not provide sufficient detailed justification to demonstrate that contributions within the Agreement, as described in paragraphs 156 and 157 above, are fairly and reasonably related in scale and kind to the development proposed. Even so, these sums are agreed between the main parties and there is no suggestion that, if this appeal were to be allowed, the provisions of the planning obligation would conflict with development plan policies referred to within the Agreement and ID-17.

## Conclusions

161. *In the following paragraphs the figures in square brackets refer to earlier paragraphs of my report that contain material on which I have based my conclusions.*
162. Concerns have been raised regarding the level of consultation between the Appellant and local people. It is evident that the results of previous consultation regarding the use of the appeal sites were taken into account during the determination of the application. The application was publicised. In addition, the appeal process enabled all parties to make representations and present their views to the inquiry. Therefore, concerns regarding the level of consultation by the Appellant attract little weight against the proposal.
163. From the foregoing submissions and representations, I am of the view that the main considerations in this case are:
- Whether the proposal would be a sustainable form of development;
  - The effect of the development proposed on the provision of open space;
  - The effect of the development proposed on the character and appearance of the locality;
  - The effect of the development proposed on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities; and,
  - Overall conclusion, including assessment of the proposal against the Development Plan and national policies.

164. Prior to concluding on these, I shall address a number of other considerations including in regard to: the supply of land for housing; the effect of the development on highway safety; flooding and wildlife; local living conditions (including in regard to noise, disturbance, and antisocial behaviour); and, the economy.

**Other considerations including in regard to: the supply of land for housing; the effect of the development on highway safety; flooding and wildlife; local living conditions (including in regard to noise, disturbance, and antisocial behaviour); and, the economy**

The supply of land for housing

165. It is agreed that the Council's housing policies cannot be considered up-to-date due to the absence of a five year supply of deliverable sites for housing. Both main parties have addressed the Framework's approach to housing policies. While the Framework does not restate previous national policy contained within PPS3 paragraphs 71 and 69, the current guidance is unambiguous regarding its approach to such circumstances. This is stated in Framework paragraphs 49 and 14. [29, 31, 93, 95]

166. In addressing the presumption in favour of sustainable development, paragraph 14 of the Framework indicates that: development proposals that accord with the development plan should be approved without delay; and, where the development plan is absent, silent or relevant policies out-of-date, planning permission should be granted unless considerations indicate otherwise. Framework paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

167. As the supply of housing land is not a reason for refusal in this case, the Council questions whether its housing policies are 'relevant policies' in regard to paragraph 14 of the Framework. No RSS housing policies were placed before the inquiry (and in any event, these were revoked following the closure of the inquiry). The local planning authority's concerns in relation to the design of the appeal scheme and its effect on open space are set within the context of the identified need for housing, and the development proposed. This appeal concerns areas of land that both main parties consider to be appropriate for housing and that would help to meet the City's housing needs. For these reasons the Council's extant policies in relation to housing supply, such as Core Strategy Policy CS 22 and UDP policy H10, are clearly 'relevant' to this case, but not up-to-date as there is an agreed absence of a five year supply of deliverable sites for housing. [31, 94]

Effects on highway safety

168. The appeal scheme is supported by a Transport Assessment that considered the current proposal within the context of the previous scheme for 480 dwellings. At the application stage for the current proposal, the consultation response from the Highway Authority addressed various matters that were also raised by interested persons. This response informed the Council Officer's Committee report. The Highway Authority has confirmed that road junctions would have

sufficient capacity for the appeal scheme and the potential traffic generated by the proposal has been modelled with regard to a nearby supermarket development.

169. Garages and driveways would provide off-street parking at each dwelling within the development, and opportunities for on-street parking would be available within the scheme. Proposed conditions would address construction traffic, the rectification of damage to the highway, verge hardening around the site perimeter, the retention of garages for the parking of vehicles, the provision of a new zebra crossing, and improvements to bus stops.
170. Concerns have been raised regarding additional on-street parking around the appeal sites and the effect of traffic on existing parking opportunities. Some additional on-street parking around the appeal sites would be likely to occur, along with traffic movements associated with the new dwellings. However, within the context of UDP policy T25, the development and planning conditions proposed, it has not been shown that the effects of the appeal scheme would be likely to cause traffic movements or parking activity that would be harmful to highway safety. Accordingly, these concerns only attract limited weight against the appeal scheme. [141, 142]

#### Effects in regard to flooding and wildlife

171. Essential Supporting Documents include the application's Flood Risk Assessment, and an Ecological Appraisal of the appeal site dating from 2008 with Additional Ecological Surveys carried out in 2011. The latter of these documents found the land to be of minimal ecological value with no matters that would suggest the proposed development would be harmful to wildlife. In regard to the objectives of UDP policy GE11, by providing greater diversity of habitat and reinforcing existing vegetation, the development would be beneficial to local wildlife and this attracts some weight in favour of the appeal scheme. [142]
172. The Flood Risk Assessment found the appeal sites to lie within flood zone 1, with no historical evidence of the sites having been affected by flooding. Proposals include a scheme of sustainable drainage and detention storage of excess run-off that address matters relevant to Core Strategy Policy CS 67. Following consideration of the flood risk assessment, The Environment Agency recommended conditions and had no objection to the proposal. A proposed condition would address the implementation of the Flood Risk Assessment and drainage systems should prevent run-off with the potential to cause flooding elsewhere. [142]

#### Living conditions

173. This is a residential area where activity associated with the occupation of dwellings can reasonably be expected to occur. While the proposed development would add to this, it has not been shown that it would do so significantly. Nor has it been demonstrated that overlooking between dwellings within the development, or to and from those around it, would be anything other than that to be expected in a residential area. Evidence in this case does not suggest that the occupation of the proposed development would result in levels of noise and disturbance, and overlooking that would be harmful to local living conditions.

174. Cars emerging from proposed junctions with existing highways would be a source of additional light received by existing windows in these locations. Such conditions are to be expected at residences next to highways and especially within an urban area. In addition, the level of light that is allowed to enter into a room through a window is a matter that is within the control of the occupier of the dwelling. Accordingly, the use of highway junctions should not be harmful to local living conditions in regard to light. [142]
175. Instances of antisocial behaviour associated with the appeal sites would be expected to reduce due to the occupation of the areas and the natural surveillance that would result. Concerns have also been raised in regard to possible detrimental effects on health, but evidence has not been produced to support these. On the contrary, the provision of improved recreational facilities, alongside the new housing that would support local shops and services, would be expected to benefit the health and well being of local residents. Also, proposed planning conditions would address the potential for pollution to result from the appeal scheme, including in relation to any potentially contaminated land on the appeal site. Within the context of UDP policy H14, these expected and potential benefits provide considerable weight in favour of the appeal scheme. [142, 143]

#### Effects on the economy

176. Development of the appeal sites would contribute to the local economy through jobs and expenditure during construction works, and then through the economic activity associated with occupation of the dwellings. ID-10 provides estimates of the economic benefits that would result from the appeal scheme. Such benefits are recognised by paragraph 2.1.2 of the 2005 Masterplan, which highlights that additional expenditure associated with new housing would support the retention of local services by compensating for lower occupancy rates in the Parson Cross area. [32]
177. It is not apparent that the development plan policies placed before the inquiry directly address matters within paragraph 19 of the Framework, which confirms that significant weight should be placed on the need to support economic growth through the planning system. The longer term economic benefits to this area may to some extent be reduced by the relocation of people within it or the wider locality. Nevertheless, the increased number of dwellings would reasonably be expected to include new households and people moving into the area, both of which would assist growth in the local economy. This adds to the economic benefits of construction activity, and together they provide significant weight in favour of the appeal scheme. [109])

#### **Whether the proposal would be a sustainable form of development**

178. Although the viability of the proposed development would not support the objectives for renewable and decentralised energy supply that were expressed by the first reason for refusal, proposed condition 19 would ensure the dwellings achieve Level 3 of the Code for Sustainable Homes. Environmental sustainability would also be addressed by the range of habitats that would result from the development, the implementation of a travel plan and the remediation of any contaminated land. [2]

179. The appeal scheme would be an efficient use of existing brownfield land on sites that are in close proximity to shops, services, employment opportunities, and transport networks that enable alternatives to the private car to be used. Redevelopment of the sites would support economic growth. Social benefits would also be realised through the provision of much needed housing, assisting the retention of local shops and services, improvements in the quality of recreation facilities, along with education and training provision through the relevant planning obligation. [23, 29, 155, 159, 176]
180. Application documentation includes a Sustainability Report that concluded the appeal scheme would comply with Core Strategy Policies CS 64 and CS 65. Evidence presented to the inquiry confirmed this, and that the appeal proposal would be a sustainable form of development for which there is a presumption in favour.

### **The effect of the development proposed on the provision of open space**

181. Themes within paragraph 74 of the Framework reflect extant development plan policy, including that within Core Strategy Policy CS 47. The Council Officer's report on the application considered open space within the context of these themes.
182. Former playing pitches on parts of the appeal site have not been in formal use for over five years. As a consequence of this, Sport England considers the land not to form a playing field as defined within planning legislation. Sport England would withdraw its 'non-statutory' objection if adequate provision were to be made for car parking and changing facilities in Colley Park to serve the two proposed pitches on the Colley Site. Such provision is within the s.106 Agreement referred to above. [42, 157]
183. Supporting text to Core Strategy Policy CS 47 contains a definition of open space that is consistent with Annex 2 of the Framework. It encompasses both formal and informal open space in public and private areas. There is agreement between the main parties on open space policy compliance, except in relation to Core Strategy Policy CS 47(a). [19, 33, 39, 40]
184. The now discontinued use of parts of the appeal sites for formal recreation was the basis of their open space designation within the UDP. However, representations from a number of local people indicate that the appeal sites are currently of value to them as open space and provide opportunities for informal recreation due to permissive access. [39, 98]
185. It was agreed that the Masterplan provided a 'direction of travel' for the appeal sites towards redevelopment for housing and this would weigh against the UDP designated open space within them. A submission draft SDF CPS is due that would be expected to address the context of Core Strategy Policy CS 47, but the draft document was not before the inquiry. Even though UDP open space policies are agreed to have been met, the areas of open space designated within the UDP remain part of the adopted development plan for this area, and at this stage, Core Strategy Policy CS 47 is considered against them. [35, 36, 37, 38, 41, 96]
186. The Council's decision in April 2012 was informed by an assessment of open space provision carried out by its Forward and Area Planning Team in August 2011. Former national policy within Planning Policy Guidance 17 – *Planning for*

*open space, sport and recreation*, along with playing pitch audits and Core Strategy Policy CS 47, were noted to provide the policy context for the Council's assessment. [11]

187. In addressing Peacock & Smith's *PPG17 Statement* the Forward and Area Planning Team's assessment confirms there to be adequate open space in the wider area, but a shortage in the locality around the appeal site. The Forward and Area Planning Team's assessment notes the 2005 Playing Pitch Strategy considered the appeal sites to be of high quality, but low value due to their use being restricted to the former college. The pitches cannot be used at present, and consequently they are now of even lower value as formal outdoor sport and recreation sites. [39, 41]
188. A quantitative shortage of open space is defined by the supporting text to Core Strategy Policy CS 47 as less than 4 ha per 1000 people. The Council's assessment found that the appeal scheme would exacerbate the existing shortfall in the locality, although there is adequate provision within Southey and Owlerton as a whole. .
189. The final paragraph of the Forward and Area Planning Team's assessment noted both: the possible allocation of the appeal sites for housing; and that when local people were consulted on the possible development of the land, they had been receptive to some loss of open space if it led to higher quality residential development.
190. The range of informal activities that would reasonably be expected to occur on the appeal sites, as a result of the existing permissive access and on-site conditions, would be likely to diminish through the development proposed. Visual amenity associated with the openness of the land would also diminish. However, the proposed facilities and informal open space would be of significant and ongoing value to the local community. Contributions would also be made towards the objectives of UDP policy H16.
191. The Appellant highlights the quality of new open space proposed would more than compensate for the loss that would result from the appeal scheme. The loss would be of allocated open space, without the facilities necessary for it to be used formally. The new pitches, associated facilities and informal areas of open space would link the proposed development to Colley Park and the other parts of the locality, while significantly improving formal recreational opportunities in the area.
192. It was agreed at the inquiry that the application would not have been refused on the grounds of open space alone. This element of the remaining reason for refusal is a consequence of the Council's conclusion in regard to design.
193. The Appellant has a clear view that within the context of the presumption in favour of sustainable development, and paragraph 49 of the Framework, the loss of open space does not outweigh the benefits of the appeal scheme. [34]
194. However, in cross-examination of the Council the Appellant focussed on the component parts of the 4 ha per 1000 people threshold. Paragraph 9.26 of the Core Strategy states that formal open space, and sports and recreation facilities (including children's play space), account for 1.30 ha of the 4 ha per 1000 people quantitative shortage threshold. The appeal scheme would result in 1.29 ha of

formal open space. As shown on page 4 of ID-LPA3 Appendix 4, this includes an outdoor sport component of 1.26 ha per 1000 people, which is in excess of the Council's *Recommended Standard* of 1.12 ha per 1000 people. [39, 40]

195. There is disagreement on how a quantitative shortage of open space should be calculated. Nevertheless, it is clear that the proposal would provide facilities for outdoor sport that would meet the objectives of development plan policy. I attach significant weight to these beneficial consequences of the development, which would also make a contribution toward the identified deficiency in children's play facilities through the s.106 Agreement. [39, 43, 96]

### **The effect of the development proposed on the character and appearance of the locality**

196. Despite the significant period since the adoption of the UDP, relevant development plan policies in regard to design are consistent with the objectives of each other and the Framework. [10, 14, 19, 105]

Whether the area is a Garden City suburb within the context of Policy CS74

197. The existing character of the locality is described within the evidence and above. [7, 8, 52, 99, 104]

198. The main parties disagree as to whether the Parson Cross estate is a Garden City suburb in regard to Core Strategy Policy CS 74 (d)(iii). As highlighted above, the relevant part of Policy CS 74 states "...iii. Victorian, Edwardian and Garden City suburbs...". It is not clear that a simple reading of the plural 'suburbs' relates to Garden City suburbs. It is just as plausible that the criterion should be read as suburbs from all three named types and there could indeed be only one 'true' Garden City suburb within the Core Strategy area. In any event, evidence presented to the inquiry highlighted distinctions between Parson Cross and the nearby Flower Estate at Wincobank that reflect those drawn by Ms Whiteoak in ID-APP4. Here, Parson Cross is described as an interwar and post war municipal housing estate that was *influenced by the Garden Suburb Movement*, but that *does not hold the same historical importance* as the Flower Estate. Consequently, while the Flower Estate appears to have influenced development immediately around the appeal site, Parson Cross is considered not to be a 'true' Garden City suburb with a *distinctive heritage of buildings and settlement forms* that Policy CS 74(d) seeks to take *advantage of and enhance*. [53, 54, 102, 103, 104]

Views of and from the appeal sites

199. The appeal proposal would develop part of the open space that is evident within this predominantly residential environment. Changing topography provides longer views from within and around the appeal sites and this is especially so at the Montenev Site. The length of the site perimeters would result in lengthy interfaces between existing and proposed development. This, along with the open space for sports pitches next to Remington Road and opposite Colley Park, emphasises the extent to which the appeal scheme would be experienced within the wider townscape by those who would travel through the development and the occupiers of the dwellings proposed. While the appeal scheme would reduce some of the available aspects within the locality, the layout of the proposal, along with local topography, would maintain predominantly

residential aspects of and from the appeal sites. These would include in relation to Colley Park, proposed areas of open space and longer views across Sheffield. [87]

The main parties' objectives for the scheme

200. The basic layout for the appeal scheme was shaped by local topography, existing infrastructure and consultation carried out by the previous site owner. Pre-application comments from the Council in relation to the current scheme indicate that initially there were two broad areas of concern in regard to: the network of green spaces; and, the hierarchy of routes and spaces between buildings. Council comments became more detailed in later correspondence and covered a wide range of design related matters such as route hierarchies, building lines, boundary treatments and the lack of distinctiveness in house design. The Council also commented on other matters of detail, for example the provision of adequate amenity space on specific plots. [91, 92]
201. Many of the matters raised by the Council were addressed prior to determination of the application and have not been the focus of evidence to this inquiry. Revisions that have been made include providing a logical relationship between the proposed sports pitches on the Colley Site and the facilities and open space on the opposite side of Remington Road in Colley Park. These modifications have significantly improved the quality of the proposed scheme by providing a layout (and as a result of addressing other matters that are dealt with below) that is more responsive to the existing character and appearance of the locality. The Appellant also has clear objectives for the development, which include building houses that the company's experience indicates will be attractive to the market that it seeks to meet. [24, 76, 91, 92]

Buildings lines

202. Characteristic development within Parson Cross displays strong building lines. Mapping, such as that in ID-7, shows the regularity of the building lines within the estate and the sections of modulation built into them (see, for example, on Montenev Road opposite to the junction with Montenev Gardens). The built forms of the front elevations of existing dwellings reinforce the strength of the building lines in the locality. [130]
203. The strength of these building lines is in part due to their consistency (or perhaps 'smoothness'), which is a feature of the Montenev Road housing referred to above. Evidence also shows there to be a degree of variation in house type and therefore, building line, along Morrall Road. Despite these elements of modulation and variation, the appeal scheme would not mirror the regularity of the original Parson Cross building lines. This departure would be punctuated by set back garages and provision for vehicle parking that were not features of the original Parson Cross layout. [66, 67]
204. Page 108 of the Design Guide seeks development to form a coherent building line. Both the Design Guide and By Design refer to set backs and projections within a street frontage and these are evident in examples of good practice provided by the Council. [68]
205. Proposed building lines would not have the linearity of those they seek to respond to. However, I find the analysis provided by the Appellant shows that

the frontages, along with the highway layout, would create a legible street scene with a clear character. This occurs even where the frontage starts to lose the strength of its definition by the variety within it, which is evident in plot nos.1-9 of the Colley Site next to the proposed playing pitches. [67, 125]

#### Standard house types and variety

206. In June 2011, the Sheffield Sustainable Development and Design Panel confirmed that it considered the use of standard house types would be appropriate on the appeal sites as there was clear historical precedent for it. Both the Appellant and Council agree with this, but have differing expectations in regard to the manner in which such housing would respond to the character of the locality. [59, 76, 136]
207. The Appellant company's business model uses standard house types, with differing treatments and materials. Some of the architectural detailing that representations have sought to be removed from the designs is seen by the Appellant to be important to the marketing of the houses. Standard house types proposed in this case would provide greater variety in the street scene through the frequency of house type change, the associated positioning of the proposed dwellings and the materials used. [120]
208. The age of the Parson Cross estate and the length of occupation within it, have created a 'patina' in the appearance of the area's dwellings and their amenity spaces. The Appellant's approach would create layouts and built forms that would obviously differ from the regularity of the existing development. However, in future years the gardens within the appeal scheme would mature, along with boundary treatments that would face toward and respond to those at existing development. In addition, modifications would result from the occupation of the proposed dwellings to create a 'patina'. These factors would lessen the perceived difference between the appeal scheme and existing development that is characteristic of Parson Cross. Although the appeal scheme would have greater variability designed within it, I see no obvious reason why the combinations of house types, treatments and layouts proposed would fail to be legible. [117, 118, 119]
209. While the appeal scheme may not have the architectural impact of the Shirecliffe housing, convincing evidence has not been produced to demonstrate that the appeal scheme would be 'incoherent' and 'chaotic'. Moreover, there are clear inconsistencies and contradictions within the Council's design case. Much of the architecture within examples of good practice provided and observed on-site is not (or would not be) a close response to surrounding development in Parson Cross. The completed buildings in the Shirecliffe development are distinctive pitched roof buildings with gable fronted elevations that reinforce the building line in the street. Elevations include characteristic (reversed) colour banding. However, the ridge lines are perpendicular to the characteristic hip roof semi-detached blocks around them. Also, the fenestration both in design and in the comparative quantity at ground and first floor level do not reflect existing dwellings in the townscape. In addition, the layout of the Seaton Crescent development enables space to 'leak away' at the end of views (a criticism made of parts of the appeal scheme) and includes houses without the level of front amenity space enclosure sought by the Council at the appeal sites. The layout of housing in the Falstaff scheme results in varying building lines, and the Norfolk

Park development has elevations with inset and projecting elements that also would depart from the characteristic designs in Parson Cross. [55, 56, 60, 74, 78, 92]

210. The Appellant company only makes substantial changes to its standard designs where it is commercially advantageous for it to do so within the tight financial margins of its business model. The financial challenges involved in developing this site have resulted in the current scheme, and the approach agreed between the main parties to the possible provision of affordable housing. Although the proposed architecture would not be exciting or innovative, there would appear to be sufficient variation within the proposed house types and treatments to ensure that the interfaces with existing development would have enough common points of reference, for example through brick type and porch design, for the proposed dwellings to successfully respond to local character. [2, 20, 75, 77, 101, 141, 155]

#### Roofscape

211. The Design Guide, as quoted by Ms Worthington, highlights that ridge lines are one of the elements of the street scene that traditionally run in parallel. The appeal scheme would have significantly more variation in roof form than the characteristic housing within Parson Cross. It would obviously depart from the very high degree of regularity around it through the use of gables and dormers in house frontages. However, the building lines would be sufficiently strong to compensate for the uncharacteristic variety in ridge lines within the development. In any event, varying ridge lines are evident in (for example) the Falstaff and Shirecliffe schemes. In common with the Shirecliffe scheme, the street would be legible even though it would be different to, and a distinct subset of, characteristic Parson Cross development. [56, 74, 135]

#### Window proportions

212. Proposed window proportions would vary from those in characteristic development around the appeal sites, but within Parson Cross there is considerable variety in fenestration, including changes that are part of the area's 'patina'. Windows that are characteristic, in both style and proportion between ground and first floor levels, are absent (or reversed) in examples of good design put forward by the Council. The Council did not pursue this matter in its closing submissions. Given the variety of window designs that are now evident within the locality, the proposed fenestration would not be harmful to local character or fail to respond to it. [77, 78, 114]

#### Street hierarchy

213. Parson Cross includes local distributor roads that lie elsewhere in the area. The appeal scheme would develop a substantial number of dwellings on the two sites, but given the size and nature of the development proposed, the highways within the scheme would be expected to be estate roads. Nevertheless, the Appellant has sought to provide a degree of hierarchy within them. This hierarchy of streets would not be clearly signalled by significant changes in the scale, type, elevation treatment and layout of buildings. [62, 121, 123]

214. The Council has shown that in a number of locations the proposed layout results in varying street widths that fail to provide a clear expression of

hierarchy, and indeed, erode the effectiveness of carriageway width to signal change. However, the appeal scheme includes “gateway” or “pinch point” narrowing at junctions, differing surface treatments and the presence, or otherwise, of footways to suggest street hierarchy. Proposed hedge and tree planting would reinforce the narrowing in the street scene from building layouts, while softening the effect of ‘blank’ boundaries (examples shown in ID-LPA6 Appendix O). These techniques are subtle, but in-combination they would off-set the potential erosion of hierarchy by variations in perceived street width. [63, 65, 122, 123]

215. Street trees are not a characteristic of Parson Cross, and many of the trees that would contribute to the proposed street scenes would be within private gardens. Covenants are intended to provide for the protection and retention of these trees, but some could be lost or pruned back in the future. Consequently, the long term significance of these trees to the character of the appeal scheme remains uncertain. Such planting is not required for the development to respond to the character of the area. Nevertheless, the trees would be expected to contribute to both the character of the development proposed and the ‘patina’ that would develop over time. In future years, some or even most of the originally planted trees could be lost, or severely pruned. However, given the nature of the housing proposed, sufficient trees would reasonably be expected to remain to complement future additional planting within the residential gardens. In doing so, the trees would contribute to the definition of street hierarchy, while adding legibility to the townscape within the appeal sites. [64, 65, 124]

#### Gateways and pinch points

216. Concerns were raised regarding the treatment of corners within the appeal scheme, and especially the effect of ‘gateways’ and ‘pinch points’ in the proposed layouts. For the most part the ‘gateways’ and ‘pinch points’ intentionally seek to define transitions within the development. However, the Council has identified other locations where these would be present on one or both sides of the street. This matter is relevant to the linearity of the proposed building lines and the variation caused by the pinch points and set back house sitings within them.
217. In seeking good design and the use of good quality materials, criterion (e) of LP policy BE5 states that special architectural treatment should be given to corner sites to create lively and interesting environments. Blank boundaries and side gables are a more abrupt form of corner treatment than is typically found in the Parson Cross estate. However, many of the instances referred to on ID-4 do have a function in creating gateway and pinch point features. Also, as noted above in relation to ‘Street hierarchy’, vegetation and the ‘patina’ of occupancy would be expected to soften considerably the future effect of blank boundaries and side gables within the street scene. Given their context, I consider there to be an appropriate number of gateway and pinch points within the design and accordingly, they are not poor elements of it. [69, 70, 71, 126]

#### Street containment

218. The Council also drew attention to areas of corner treatment in the Colley Site where a lack of immediate termination of a view would cause a perception of space ‘leaking’ away. These layouts enable an effective use of land and are found in some of the examples of good practice put forward by the Council.

Nevertheless, instances where aspects down the street would be 'closed' by garages and the back of development within the view would be less effective forms of termination than a more significant built frontage that would act as a focal point. Such instances could be considered to be poor design, and especially within the context of Parson Cross where views along cul-de-sacs and roads are typically terminated by a built form that is intended to serve that function. While these weaker elements of the appeal scheme occur frequently, they are not predominant parts of it, and need to be considered within the context of the development as a whole. [60, 61, 127]

#### Boundaries and frontage treatments

219. The Appellant has outlined why it considers open layouts to reduce the potential for crime by allowing greater ownership and blurring of the transition between public and private spaces through a lack of, or reduced, frontage boundary treatment. However, the evidence submitted fails to demonstrate a link between the open plan layout of Montenev Gardens and lower levels of recorded crime in comparison to other areas within 1 mile of the appeal site. The cul-de-sac nature of Montenev Gardens, which is accessed from a busy thoroughfare with high levels of natural surveillance, is likely to contribute to the security and lack of recorded crime within it. [73, 112, 134]
220. Strong and varying boundary treatments are a characteristic of Parson Cross. These existing enclosures have often been modified to enable off-road parking and this is evident around the appeal sites. Landscaping proposals for the appeal scheme include differential levels of boundary treatment. Strong boundary treatments would face toward the characteristic enclosures at existing dwellings, and would also be established in other locations within the sites. These include the 'avenue' style planting around the open space and sports pitches on the Colley Site, at specific corner locations, private drives and on sections of the pedestrian permeability routes. More open layouts would also be present within the development. As a consequence, potential occupiers would be provided with a degree of choice in the style of enclosure around their dwelling and the varying residential character that would result. [72, 128, 131]
221. It is evident that strong and mature front boundary treatments in Parson Cross lead to diverse activities within them. The minimal front boundary treatments preferred by the appellant company are likely to focus activity within the private amenity space of the dwellings concerned. This focus of activity would be expected to restrain the rate of change within the open areas from, for example, planting, the establishment of boundary treatment and other residential activities. Even so, the differing boundary treatments proposed would link the development to the existing character around the appeal sites, while providing areas of greater permeability within them. This approach would not prevent variability becoming established within these more open environments as occupiers of the dwellings and amenity spaces follow their own objectives for them. [131, 132, 133]
222. Plot 111 on the Montenev Site drew particular attention during inquiry exchanges in regard to its siting and the potential for overlooking of the rear windows and amenity space of the dwelling from the public path along the site boundary with Colley Park. It is positioned at the base of the steep landscaped embankment that bisects the Montenev Site and next to Colley Park. Neither the

Council's reasons for refusal nor the Council Officer's Committee report on the proposal raised concerns regarding the possible effect of overlooking on the living conditions of people occupying this dwelling (or indeed those of people living at the adjoining properties). [79]

223. Landscaping on the embankment next to this boundary would eventually reduce the opportunities for views to be taken from Colley Park towards Plot 111. In the interim, any overlooking would reasonably be expected to be transient as people move along the footway. In addition, views would be oblique to the orientation of the windows in the rear elevation on Plot 111 and at sufficient distance to reduce the perceived loss of privacy. For these reasons, I am satisfied that the appeal scheme would provide suitable living conditions at Plot 111.
224. The 2005 Masterplan highlights the opportunity for distinctive buildings to be constructed along the Montenev Site frontage onto Colley Park. Three to four storey buildings would have the potential to provide scale and height in locations next to the Colley Park boundary, including in the area of Plot 111. The appeal scheme would not provide visual impact in relation to the Colley Park open space of the type envisaged by the Masterplan or described by the 2008 Barratts scheme. Nevertheless, the two levelled areas on the Montenev Site would result in elevated positions for some of the proposed houses along this boundary (which are intended to be house types with "County/Rural Elevations"). The positioning, orientation and design of these houses would provide a degree of visual impact and overlooking of the park. This would significantly increase natural surveillance in this location and strengthen the relationship between the open space and the development. [129]
225. In contrast, existing ground levels drop significantly from Morrall Road into the appeal site which will require ground levels to be modified for the construction of houses along the Morrall Road frontage.

The response to the local townscape

226. UDP policy BE5 seeks all new buildings to be of good design, and while original architecture is encouraged, new buildings should complement the scale, form and architectural style of surrounding buildings. Core Strategy Policy CS 74 expects development to be of high quality design that respects and takes advantage of the distinctive features of the city. The Appellant considers the locality around the appeal site to have architecture of little historic significance. Consequently, the appeal scheme does not seek to copy existing development in the area, but respond to it in accordance with paragraph 58 of the Framework. [51, 90, 107, 108]
227. The detached houses within Montenev Gardens are of a suburban design that could be considered to be comparable to similar developments that date from the mid-1990s. They differ from the architecture of the semi-detached dwellings on Montenev Road that are typical of Parson Cross estate development. Current development plan policy in regard to design is considered to be comparable to that in the mid-1990s, although the Framework and various design guidance documents referred to by the main parties to this appeal are more recent than the UDP. [105]

228. The 2005 Masterplan has provided the background for this proposal, but the appeal scheme has been shaped by the Appellant's objectives and the economic environment within which the company seeks to bring the site forward. House types are standard company designs and therefore, the scheme is reliant on layout, detailing and landscape to provide the response sought by planning policy. While the underlying features of the development have not changed significantly, a series of responses to local character have been established within the scheme. [27, 46, 52, 56, 97, 138]

229. The Council has referred to examples of good design in the locality (and elsewhere). It is apparent to me that the roof planes and frontage treatment of the contemporary architecture in both the Falstaff and Shirecliffe schemes will provide built forms with strong lines and an associated presence in the street scene. Seaton Crescent also has strong building lines. Each of the good practice examples in the locality have responded to their immediate surroundings in differing ways. However and in common with the appeal scheme, they include divergent features that are addressed above while still responding to the local townscape. [55, 209]

Would the development contribute to place-making?

230. The Council points to the simple style of houses at Parson Cross, their repetition in the townscape and the patina of age from their occupation contributing to the sense of place. Development within the appeal scheme would introduce a greater degree of variety into the area, but the characteristic Parson Cross architecture would continue to predominate and the appeal scheme would respond to it. Moreover, while the house types proposed would not be innovative or original architecture, they are designs that would be likely to be valued and considered high quality by those who would wish to occupy them. The appeal proposal would produce distinct areas of development and associated open space that would define the places in which they stand. In doing so, the development would shape and contribute to its immediate surroundings and the wider locality. It would do so through its direct visual influence in views taken across the sites or from within them. [136]

Building for Life

231. Although Core Strategy Policy CS 74 was framed with reference to Building for Life (20) and the Council assessed the appeal scheme against that document, the Appellant notes it to have been replaced by Building for Life '12'. An initial assessment by the Council against Building for Life (20) failed to score either site above the minimum sought of 14/20. In regard to Building for Life '12' which is the current document and prepared with reference to the Framework, the Appellant considers the appeal scheme would be scored a considerable number of 'greens' and no 'reds'. Some of the 'red' matters that Building for Life '12' recommends be avoided are especially relevant to the cases made at the inquiry, including in regard to '5 Character', '7 Creating well defined streets and spaces' and '8 Easy to find your way around'. These include termination of views with garages and blank elevations in the street scene. However, and having considered the 12 parts of Building for Life '12', the appeal scheme has, on balance, adequately addressed the objectives of the 12 parts. [59,106]

Has the Council sought to impose an architectural style?

232. The Council has sought to have a scheme brought forward that would respond to the architecture of the surrounding area. In doing so, its ambitions are evident in correspondence and the schemes that it has drawn attention to. However and despite the Council's criticism of the mis-quotation of its position in the Appellant's evidence, there are clear contradictions between elements of the designs that are held up as examples of best practice and criticisms made of the appeal scheme. These contradictions are detailed above. [55, 56, 68, 74, 78, 92, 108, 114, 209]

Conclusion regarding the effect on character and appearance

233. The appeal scheme would develop areas that are currently open. There are elements of the proposed layouts in regard to the termination of corner views that could have been improved. Evidence presented to the inquiry did not confirm to what extent modifying these elements would threaten the viability of the scheme. However, by providing pinch points and gateways other corner sites within the appeal scheme would provide interest within the street scene and the development would contribute to place-making within Parson Cross, while responding to the character and appearance of the locality. [230]

234. The intended hierarchy of streets would be discernable, as would be the varying character areas within the appeal scheme. The development would be legible and well connected to the surrounding area, which it would respond to. Planning conditions would provide a means to ensure that the detailed response in regard to matters including architectural and boundary treatments would be appropriate within the context of the scheme. It would not be innovative architecture, but neither when considered as a whole would the development be poor design. Given the circumstances that apply to this proposal, the manner in which it would respond to the development around it, the formal and informal open space that it would provide, the appeal scheme would respect and enhance the character and appearance of the locality, and this adds significant weight in its favour. [49]

**The effect of the development proposed on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities**

235. In response to my questions, the Council noted the Framework to be a holistic document that addressed the matters on which the Secretary of State wished to be informed. Attention was drawn to the 2005 Masterplan which seeks high quality housing, and that low cost housing could also be high quality through its design. The Appellant emphasised that the proposal would provide low cost homes that would contribute to addressing the significant shortfall in the provision of new housing in the City. It would also reinforce the social fabric of the locality through the benefits highlighted above.

236. It is clear that the appeal scheme would transform the physical environment of the appeal sites and Parson Cross for the better, while maintaining pedestrian permeability through the sites for access to local services and facilities. It would enable safe and convenient access for all people, and a range of transport options would be available to access the wider locality. In addition, the

development would create attractive residential environments that would respond to both the character of surrounding development and the market the proposals seek to meet.

237. The developer's business model aims to ensure that 90% of local working people would be able to afford the new dwellings, which differ in size and design. The overall viability of the scheme in regard to affordable housing was considered by the Council in the Officer's report on the application. Should market conditions and the viability of the scheme change, the First Schedule of the s.106 Agreement would enable the provision of affordable homes to be addressed during development of the sites, which attracts considerable weight in favour of the proposal. [155]

238. In conclusion, the appeal scheme would contribute toward the creation of a high quality, sustainable and successful neighbourhood. The range of houses proposed would complement existing dwellings in the area. By responding to the local housing market, the appeal scheme would reasonably be expected to be attractive to a wide range of potential occupiers. The appeal scheme would secure a better balance between housing demand and supply, and for the reasons above, it would help to create high quality, sustainable, mixed and inclusive communities.

### **Overall conclusion, including assessment of the proposal against the Development Plan and national policies**

239. This case illustrates the challenges faced by an ambitious local authority which seeks to drive forward the design of a major development to create places of a comparable standard to other schemes referred to, and those of a developer that has a clear appreciation of their market and what will be deliverable on a site with the circumstances that apply in this instance.

240. The appeal site has been available to the market and considered by potential developers for a significant period of time. Furthermore, there is a clear 'direction of travel' through the Masterplan and policy development towards allocation for housing on parts of the sites. The current scheme would provide much needed housing within the City and aid regeneration. It aims to do so in a way that directly addresses the affordability of the dwellings to local people and their potential circumstances. In this regard the proposed dwellings would be low cost market housing, rather than 'affordable'. [20, 25, 36, 80, 85, 186]

241. In relation to the other considerations raised in this case, which include highway safety, flooding and wildlife, local living conditions and the economy, the appeal proposal complies with UDP policies T25, GE11 and H14, Core Strategy Policy 67, and objectives reflected in paragraphs 17 and 19 of the Framework.

242. In seeking to meet the Council's concerns regarding the design and layout of the scheme, the Appellant has modified its normal approach to the development and marketing of sites where viability considerations are challenging. Nevertheless, the company remains confident that the appeal scheme would bring forward these sites in a viable and saleable way that would realise the benefits of the scheme. In this respect, the evidence brought forward by the Appellant is convincing. [25, 91, 110]

243. Paragraph 56 of the Framework states that good design is a key aspect of sustainable development (rather than poor design is not). This is reflected in the relevant *Core planning principle* of national policy, which indicates that planning should always seek to secure high quality design and a good standard of amenity. Furthermore, paragraph 63 of the Framework indicates that great weight should be given to outstanding or innovative designs. However, the relevant test is that within paragraph 64 of the Framework, which concerns the refusal of permission for development that is of poor design. [81, 90]
244. There is no distance between the main parties as to whether the appeal scheme would be 'innovative'. Such a scheme is not the Appellant's objective. Saleability is. While convincing evidence has not been produced to suggest that possible occupiers of the appeal scheme would find the examples of good design highlighted by the Council unappealing, there is no doubt the Appellant company believes that it knows its market. [25, 92, 95, 101, 111]
245. Elements of the proposal could be improved and indeed, certain elements of the scheme, such as the termination of views and exposed blank gable walls, could be considered to be poor design. However, these are minor parts of the proposal and the company has been candid regarding the viability considerations and modifications that have led to the appeal scheme. These viability considerations have resulted in the withdrawal of the previous proposal (and the associated developer), the resolution of the first reason for refusal in relation to the current scheme and the agreed approach to affordable housing on this site. [2, 20, 24, 155]
246. It is also clear that if the architecture and layout are successful responses to the locality and the intended market, the dwellings would be likely to be considered good design within a high quality development by the people who would wish to live in them. Indeed, within the context of Core Strategy Policy CS 74 and the conclusions above, when considered as a whole, the appeal scheme would be a form of high quality development. It would be compliant with Core Strategy Policy CS 74, and on balance, UDP policy BE5.
247. Although existing open space on the appeal site is valued by its users, the outcomes of the development would meet local policy objectives in regard to the designated open space that would be lost. The appeal scheme would not result in a quantitative shortage of open space and complies with Core Strategy Policy CS 47. [89]
248. The final part of the First Schedule of the s.106 Agreement provides for the employment of four apprentices in regard to the construction works proposed. Neither main party considers this to be a reason for granting permission.<sup>55</sup> Nevertheless, the economic activity associated with the construction and occupation of the development would support the Framework *Core planning principle* that seeks to proactively drive and support sustainable economic development. In addition, the Agreement addresses compliance with Core Strategy Policy CS 40, and UDP policies BE6, BE12 and H16.

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<sup>55</sup> ID-17 part 11

249. In this case, there are no adverse impacts that significantly and demonstrably outweigh the benefits when assessed against the development plan, and the policies of the Framework taken as a whole.

**Recommendation**

250. I recommend that the appeal be allowed subject to the conditions set out in Annex A.

*Clive Sproule*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Anthony Gill	Of counsel instructed by Lynne Bird, Director of Legal Services, Sheffield City Council
He called	
Kate Mansell	Principal Planning Officer – Sheffield City Council
BA(Hons) MPhil (TP)	
John Stonard	Urban and Environmental Design Manager – Sheffield City Council
MCD(Dist) MRTPI	

### FOR THE APPELLANT:

Richard Sagar	Partner – Walker Morris Solicitors
He called	
Sarah Worthington	Associate – Peacock & Smith Limited
MPhil (EnvPI) MA MRTPI	
Faye Whiteoak	Regional Director – Gleeson Homes and Regeneration
ARB RIBA	
Peter Wood	Managing Director – Peacock & Smith Limited
DipTP MRTPI	

### INTERESTED PERSONS:

Paul Hanby	Local resident
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## DOCUMENTS

- 1 Summary Proof of Evidence of Faye Whiteoak ARB RIBA
  - 2 Sheffield Core Strategy – Inspector’s Report pages 23-25
  - 3 Sheffield City Council Planning Decision Notice ref: 11/02168/FUL
  - 4 A plan indicating ‘pinch points’ in the layout of the Colley Site
  - 5 List and set of plans in relation to this appeal
  - 6 Copy of Statutory Representations regarding the appeal scheme
  - 7 Existing Gables – a plan identifying the location of hipped and non-hipped gables in the area around the appeal sites
  - 8 Drawing no. 342-S2a – Parson Cross Sheffield Montenevy Road Site – Site Sections
  - 9 A spreadsheet record of pre-marketing interest in relation to housing on the appeal sites
  - 10 Economic benefits of the proposed development at Parson Cross
  - 11 Map 3 - Conservation Areas and Areas of Special Character
  - 12 Sheffield CC ‘Good Design’ Examples
  - 13 Statement of Common Ground – Signed and dated 22 November 2012
  - 14 Extracts from the Sheffield Unitary Development Plan – Deposit Version 1993
  - 15 List of suggested conditions – Annotated as discussed between the main parties (and then as amended)
  - 16 A Planning Obligation and Deed of Agreement – Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)
  - 17 Compliance Statement - Regulation 122 of the Community Infrastructure Levy Regulations 2010/948
  - 18 Application for costs on behalf of the Appellant
  - 19 Building for Life ‘12’ - 2012
  - 20 Building for Life (20) - 2008
- 
- LPA1 Summary Proof of Evidence of Kate Mansell
  - LPA2 Proof of Evidence of Kate Mansell
  - LPA3 Appendices to Proof of Evidence of Kate Mansell
  - LPA4 Summary Proof of Evidence of John Stonard
  - LPA5 Proof of Evidence of John Stonard
  - LPA6 Appendices to Proof of Evidence of John Stonard
- 
- APP1 Summary Proof of Evidence of Sarah Worthington
  - APP2 Proof of Evidence of Sarah Worthington
  - APP3 Appendices to Proof of Evidence of Sarah Worthington
  - APP4 Proof of Evidence of Faye Whiteoak
  - APP5 Appendices to Proof of Evidence of Faye Whiteoak
  - APP6 Summary Proof of Evidence of Peter Wood
  - APP7 Proof of Evidence of Peter Wood
  - APP8 Appendices to Proof of Evidence of Peter Wood
  - APP9 Bound volume entitled *Supplementary Documents Submitted on Behalf of the Appellant*

**ANNEX A****LIST OF PLANNING CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan	No ref
Planning Layout (Monteney)	342-SK3
Planning Layout (Colley)	343-SK3
Street Elevations	342-3el2A
Site Sections	342-S2a
Topographical Survey (Monteney)	No ref
Topographical Survey (Colley)	No ref
Detailed Landscape Plans	2267/2C
	2267/3C
	2267/4C
Detailed Landscape Plans (Colley)	2267/13B
	2267/14B
	2267/15B
	2267/16B
Garage Plans	SD702
	Typical Arrangements

House Type	Floor Plans (HT1)	Urban Elevations (HT2)	County / Rural Elevations (HT3)	Contemporary Elevations (HT4)
201	201M	201-08B	201-09C	201-10B
202	202L	202-09A	202-10A	202-11A
301	301L	301-08A	301-09A	301-10A
302	302M	302-09D	302-10D	302-11D
303	303L	303-09	303-10	303-11
304	304J	304-09A	304-10A	304-11A
309	309H	309-10A	309-11B	309-12A
310	310G	310-10A	310-11B	310-12A
400	400H	400-09B	400-10B	400-11B
401	401P	401-09C	401-10D	401-11C
403	403M	403-09C	403-10C	403-11C
404	404L	404-09B	404-10B	404-11B
405	405L	405-09B	405-10C	405-11B
406	406P	406-10A	406-11	406-12

- 3) No development shall take place until a phasing strategy for the development hereby permitted, **that shall include the house and elevation**

**treatment types within them and final topographic levels on the sites,** has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing strategy.

- 4) For each phase of development, details of all proposed external materials and finishes, including samples when requested by the local planning authority, shall be submitted to and approved in writing by the local planning authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.
- 5) For each phase of development, large scale details at a minimum of 1:20 of typical window reveals shall be approved in writing by the local planning authority before that part of the development commences. Thereafter, the development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of measures to protect the existing trees, shrubs and hedge/s that are to be retained as detailed on plans 2267/2 Rev C, 2267/3 Rev C and 2267/4 Rev C (Monteney) and 2267/13B (Colley) have been submitted to and approved in writing by the local planning authority. All measures to protect the existing trees, shrubs and hedge/s that are to be retained shall be carried out in accordance with the approved details. These measures shall include a construction methodology statement and plan showing accurate root protection areas and the location and details of protective fencing and signs. Protection of trees shall be in accordance with BS 5837, 2005 (or its replacement) and the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way. The local planning authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until the completion of the development unless otherwise approved.
- 7) For each phase the landscape works as detailed on plans 2267/13B, 2267/14B, 2267/15B, 2267/16B, 2267/2C, 2267/3C and 2267/4C shall be implemented prior to the development in that phase being fully brought into use or in the next planting season where this is first agreed in writing with the local planning authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, and an implementation timetable, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any phase of the development. The landscape management plan shall be carried out for each phase in accordance with the implementation timetable as approved.

- 9) Prior to the occupation of any dwelling hereby permitted a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include:
- i. Objectives to influence a lifestyle that will be less dependent on the private car;
  - ii. Measures to encourage less car-dependent living;
  - iii. A programme of implementation and monitoring to a defined timescale;
  - iv. Provision for the independent validation of the results and findings of the monitoring which shall be submitted to the local planning authority in accordance with the programme for its written approval; and,
  - v. Provisions for the validated results and findings of the monitoring for these results and findings to be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets which shall be submitted to the local planning authority in accordance with the programme for its written approval.
- 10) Prior to the first occupation of the dwellings hereby permitted details shall be submitted to and approved in writing by the local planning authority of arrangements which have been entered into which will secure the improvements to the highways and facilities listed below:
- i. The provision of a zebra crossing on Remington Road to connect the new proposed open space with Colley Park;
  - ii. The introduction of verge hardening around the perimeter of the site in locations to be agreed with the Local Planning Authority;
  - iii. The four existing bus stops on Monteney Road and Remington Road to include installation of bus stops/shelters.

**The details submitted in accordance with this condition shall include a timetable for the implementation of the arrangements. The highways and facilities improvements shall be provided in accordance with the approved details and the timetable for the implementation of the arrangements.**

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

- 12) No development shall take place until a dilapidation survey of the existing highways adjoining the site has been jointly undertaken with the Council. Prior to the first occupation of 95% of the dwellings hereby permitted, a further survey shall be jointly undertaken with the Council. Any remedial works to rectify damage to the highway as a consequence of the development hereby permitted, identified by comparing the two surveys, together with a timetable for carrying out such works, shall be agreed in writing with the local planning authority prior to the first occupation of all of the dwellings in the development hereby permitted, and the remedial works shall be carried out in accordance with that agreement.
- 13) Prior to the first occupation of each phase of the development the vehicle and pedestrian areas to be adopted within that phase shall have been surfaced to base tarmac course in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority, and prior to the first occupation of all of the dwellings in each phase of the development all such vehicle and pedestrian areas shall have been surfaced to wearing course standard in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority.
- 14) Within 3 months of the completion of all of the phases of the development any damage to the footways abutting the development site's frontage caused by the general movement of construction vehicles shall be repaired / resurfaced in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.
- 15) The garages hereby permitted shall be retained and kept available for the parking of cars and other vehicles at all times.
- 16) No development shall take place until a site investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site, including the timing and phasing of the remediation, to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins. The site shall be remediated in accordance with the approved details, including any measures that would form part of the development, such as the provision of gas vents or membranes within buildings and other structures.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 17) Construction and demolition works that are audible at any site boundary shall only take place between 0730 hours and 1800 hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays and Public Holidays.
- 18) Before the development of each phase is commenced, full details of the proposed refuse and recycling storage facilities to be provided to serve the

development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a method statement indicating how the facilities will be managed and serviced and how occupiers of the proposed development will be encouraged to maximise the use of the proposed recycling facilities to reduce general waste arising. Prior to the occupation of each dwelling they are designed to serve the approved facilities shall be implemented in conjunction with the approved method statement and the approved facilities shall be retained thereafter.

- 19) The dwellings hereby permitted shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 20) No building or other obstruction shall be located over or within 3 metres either side of the centre lines of each of the sewers (i.e. total protected strip width of 6 metres per sewer) that cross the site.
- 21) Surface water and foul drainage shall drain to separate systems.
- 22) No development shall take place until a scheme for surface water drainage works has been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and
  - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved surface water drainage scheme shall be implemented prior to the occupation of the dwellings hereby permitted.

- 23) There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.
- 24) Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage shall not be passed through any interceptor.
- 25) Before the first house is occupied:
  - (i) a detailed assessment of ground conditions of the land proposed for the playing pitches as shown on plan number 343-SK3 shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and

- (ii) based on the results of this assessment to be carried out pursuant to (i) of this condition above, a detailed scheme to ensure that the playing field will be provided to an acceptable quality shall be submitted to and approved in writing by the local planning authority.

The approved scheme shall be implemented in full within 18 months of the first house being occupied.

- 26) Prior to the commencement of the development hereby approved, a Management and Maintenance Scheme for the playing pitches as shown on plan number 343-SK3 shall be submitted to and approved in writing by the local planning authority. The scheme shall include management responsibilities, a maintenance schedule and a mechanism for review for a period of 25 years. The approved Management and Maintenance Scheme shall be implemented in accordance with the approved details.
- 27) The development shall only be carried out in accordance with the approved Flood Risk Assessment by JOC Consultants Limited (Report No.11/005.01 Revision 2 dated 19<sup>th</sup> May 2011) and the following mitigation measures detailed within the Flood Risk Assessment:

A detailed drainage design, development in accordance with the principles set down in the Flood Risk Assessment shall be submitted to and approved by the local planning authority prior to the commencement of each phase of development. The scheme shall take account of the existing land drain on the site and shall detail phasing of the development and phasing of the drainage provision where appropriate. The work shall be implemented in accordance with the approved phasing and no part of phase of the development shall be brought into use until the drainage works approved for that part of phase have been completed.

## **ANNEX B**

### **ABBREVIATIONS USED IN REPORT**

ID	Inquiry Document
PPS3	Planning Policy Statement 3 – <i>Housing</i>
Proof	Proof of Evidence
RSS	Regional Spatial Strategy
SDF CPS	Sheffield Development Framework City Policies and Sites – Consultation Draft – 26 May 2010
SHLAA	Sheffield & Rotherham Strategic Housing Lane Availability Assessment
SoCG	Statement of Common Ground
SPD	Supplementary Planning Document
The Core Strategy	Sheffield Development Framework Core Strategy
The Design Guide	South Yorkshire Residential Design Guide
The Framework	The National Planning Policy Framework
The Masterplan	New Parson Cross Masterplan & Development Brief
UDP	Sheffield Unitary Development Plan – adopted March 1998



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.