# Report of the Director of Planning and Regeneration Service

## ITEM NO. SUBJECT

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ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE 21 JULY 2011

#### ITEM 1

REF: RB2011/0615

Erection of five buildings to form eight office units with associated new access and parking (renewal of permission RB2008/0820) at land at Sheffield Road, Templeborough for The Symphony Group.

#### Recommendation

A. That the Council enter into an agreement, with the necessary parties, pursuant to Section 106 of the Town and Country Planning Act 1990, for the purposes of securing the following:

A contribution of £2,417 towards the A1 bus service on Sheffield Road.

B. That consequent upon the satisfactory completion of such an agreement, planning permission be granted for the proposed development, subject to the following reasons for grant and conditions.

# STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

1. Having regard to the Development Plan and all other relevant material considerations as set out below:

a)Development Plan

#### **UDP**

Policy EC1.1 'Safeguarding Existing Industrial and Business Areas' seeks to support proposals which safeguard the viability of established industrial and business areas.

Policy EC3.1 'Land Identified for Industrial and Business Uses' states that: "Within areas allocated on the Proposals Map for industrial and business use, development proposals falling within Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) will be acceptable, subject to

no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses."

Policy ENV3.1 'Development and the Environment' aims to ensure that development should not be at the expense of the local environment and the character and appearance of the area. The Policy aims to achieve environmental improvements through an appropriate standard of design, layout and landscaping.

Policy ENV3.2 'Minimising the Impact of Development' seeks to minimise the impact of development on the environment and looks to protect it from, for example, pollution or flooding. It also states that development leading to a significant loss of trees will be permitted only where there is compelling justification for doing so.

Policy T6 'Location and Layout of Development' aims to locate development close to public transport, discourage development which causes traffic congestion and promote safe and convenient access for pedestrians, cyclists and people with disabilities, as well as ensuring highway safety for car and public transport users.

## b) Other relevant material planning considerations

PPS1 'Delivering Sustainable Development' sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

PPS4: Planning for Sustainable Economic Growth sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

PPS9 'Biodiversity and Geological Conservation' aims to enhance the level of biodiversity as part of a development proposal.

PPG13 'Transport' sets out the objectives to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

Circular 05/2005 'Planning Obligations' advises that where a proposed development would, if implemented, create a need for a particular facility that is relavent to planning but cannot be required through the use of planning conditions it will usually be reasonable for planning obligations to be secured to meet this need.

The Community Infrastructure Levy Regulations, which came into force on 6 April 2010 also makes it unlawful for a planning obligation to be taken into account in determining a planning

application if it does not meet three out of the five policy tests as set out in Circular 05/2005.

# 2. For the following reasons:

Planning permission has previously been granted for the proposed development (RB2008/0820, granted permission on 12 August 2008) and the current application relates to an extension of time for the implementation of that permission. While the application should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority should, in making its decision, focus its attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.

The application has been assessed against criteria contained within PPS4 which has superseded PPG4 and PPS6 and consideration of the various PPS4 matters has demonstrated that there are no more centrally located sites which are suitable, available or viable for accommodating the development; the proposals will not undermine the renaissance of the town centre and the site is readily accessible by existing public transport links. Based on the above it is considered that the application meets the criteria set out in PPS4 and is therefore considered to be acceptable in principle.

The transportation impact is considered acceptable, having regard to the conclusions contained within the Transport Statement and the contribution towards the A1 bus service will also improve the sustainability of the site in transport terms.

With regard to any ecological impacts, a survey to establish these was submitted in support of the application which concludes that the proposed development would not have an adverse impact on ecology in the area. The proposal is therefore considered to be acceptable and in accordance with the provisions of PPS9 'Biodiversity and Geological Conservation'.

In conclusion, in the intervening period since the original planning permission was granted permission on 12 August 2008, it is not considered that there have been any development plan policies or other material considerations which have changed significantly since the original grant of permission, such as to now justify a refusal of planning permission.

3. The forgoing statement is a summary of the main considerations leading to the decision to *grant planning permission*. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

## **Conditions & Reasons Imposed:**

01

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

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority.

(Drawing numbers: SF 1261 LL01 Rev C (received 22/7/08), 2233/P05, 2233/C24a, 2233/C25a, 2233/C26a and 2233/C27a).

To define the permission and for the avoidance of doubt.

03

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

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

To ensure that surface water can adequately be drained and to encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of the adequate drainage of the site and road safety.

04

Prior to the commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the highway and details of the measures to be employed to remove any such substance from the highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be used for the duration of the works.

In order to ensure the development does not give rise to problems of mud/material deposit on the adjoining public highway in the interests of road safety.

05

Before the development is brought into use the car parking area shown on the

site plan shall be provided, marked out and thereafter maintained for car parking.

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

06

No tree shall be cut down, uprooted or destroyed nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

07

Landscaping of the site as shown on the approved plan (drawing no. LL01 Rev C" (received 4/6/08)) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

80

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the occupation of the development.

In the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

09

No development shall take place until samples of the materials to be used in

the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

10

Before the proposed development is brought into use, a revised Travel Plan shall have been submitted to and approved by the Local Planning Authority. The plan shall include clear and unambiguous objectives, modal split targets together with a programme of implementation, monitoring, validation and regular review and improvement, and shall be implemented in accordance with the details approved by the Local Planning Authority. All modifications to the plan including those made in accordance with the monitoring programme shall be notified to and approved in writing by the Local Planning Authority prior to their implementation.

In order to promote sustainable transport choices.

11

Before the development is first occupied, details of the secure short and long stay cycle parking facilities, in accordance with the Council's Cycle Parking Guidelines, shall be submitted to and approved by the Local Planning Authority. The development shall proceed in accordance with the details approved by the Local Planning Authority.

In order to promote sustainable transport choices.

12

Surface water from areas likely to receive petrol/oil contamination (e.g. vehicle parking areas) shall be passed through effective oil/grit interceptors prior to discharge to any sewer or watercourse.

To prevent pollution of any watercourse in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

13

Details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work, shall be submitted to and approved by the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.

To ensure that the development can be properly drained in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

#### 14

Before the development hereby permitted is first brought into use, a scheme detailing strategies to encourage and/or enable local people to access job opportunities arising from the development site shall have been submitted to, and approved in writing by, the Local Planning Authority. Within 12 months of the use being brought into use a statement shall be provided in writing to the Local Planning Authority demonstrating how occupants have complied with the approved scheme.

In the interests of economic regeneration of settlements associated with the development site.

#### 15

Prior to the commencement of the development, the developer shall submit a site investigation report for the approval of the Local Planning Authority. The investigation shall address the nature, degree and distribution of contamination on site and its implications on the health and safety of site workers and nearby persons, building structures and services, final end users of the site, landscaping schemes and environmental pollution, including ground water, and make recommendations so as to ensure the safe development and use of the site. The sampling and analytical strategy shall be approved by the Local Planning Authority prior to the start of the survey and all recommendations and remedial works contained within the approved report shall be implemented by the developer, prior to occupation of the site.

In the interests of safe redevelopment and afteruse of this site and in accordance with UDP Policy ENV4.4 'Contaminated Land'.

#### 16

The maximum number of parking spaces on site shall not exceed 72.

In the interests of encouraging the use of modes of transport other than the car in the interests of sustainability in accordance with UDP policy T6 'Location and Layout of Development'.

#### 17

The wall along the north boundary of the site shall be altered to a height not exceeding 0.9 metres and shall be retained at that height throughout the life of the development.

In the interests of highway safety in accordance with UDP Policy T6 'Location and Layout of Development.

#### 18

Details of the finished floor levels (above AOD) of the proposed buildings shall be submitted and approved by the Local Planning Authority before works commence and shall be implemented in accordance with the approved plans.

In the interests of flood protection in accordance with UDP Policy ENV3.2 'Minimising the impact of development'.

19

The site shall be developed with separate systems of drainage for foul and surface water on and off site.

To ensure that the development can be properly drained in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

20

On-site drainage attenuation measures shall be incorporated onto the site and shall restrict forward surface water flows to a maximum of 5 litres/sec/ha.

To ensure that the development can be properly drained and to prevent flooding in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

21

Before the development is brought into use the sight lines indicated on the site plan shall be rendered effective by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

To provide and maintain adequate visibility in the interests of road safety.

22

Before the development is commenced road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority, and the approved details shall be implemented before the development is completed.

No details having been submitted they are reserved for approval.

23

The parking provision shall include a minimum of five spaces to be designed for the use by disabled persons in accordance with a plan to be submitted and approved by the Local Planning Authority. The scheme shall thereafter be implemented before the occupation of the development hereby approved.

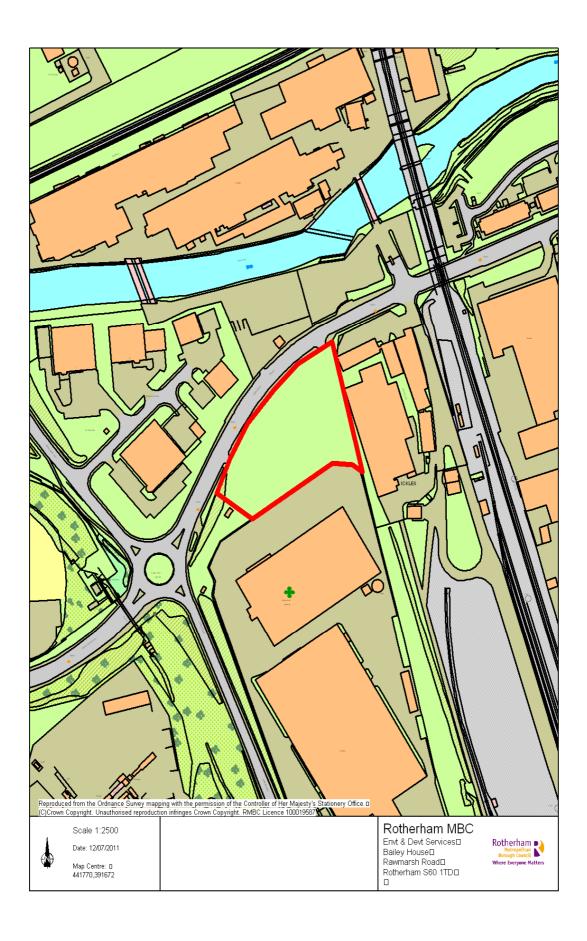
In the interests of providing adequate parking for disabled users in accordance with UDP policy T6 'Location and Layout of Development'

24

No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in

Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority\*. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.



## Background

Measures to allow applicants to submit applications to extend the time limits for implementing planning permissions have been introduced to make it easier for developers to keep planning permissions alive for longer during the current economic downturn, so that they can be more quickly implemented when economic conditions improve. It is a temporary measure and only applies to applications granted permission before the 1<sup>st</sup> October 2009.

Planning permission was originally granted to Symphony for offices under a 1993 outline planning application (ref: RB1993/0130). The subsequent reserved matters application, submitted in 1996 was withdrawn (ref: RB1996/0178). The application expired, and the applicants submitted a full application in 2007 (ref/l RB2007/1872) for office development with the siting and design based on the 1996 application. This was also withdrawn due to concerns over the appropriateness of the location of office development, highway safety, drainage and archaeology.

Since the withdrawal, the applicants submitted a further full application (ref:2008/0820) which addressed the above concerns and was approved in August 2008 subject to the satisfactory signing of an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure the following:

• A contribution of £2,417 towards the A1 bus service on Sheffield Road.

The Section 106 Agreement was signed on 12 August 2008 and the permission issued.

## **Environmental Impact Assessment**

It is considered the development falls within paragraph 10 (a), Industrial Estate Development Projects, of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. With regard to Column 2, the site exceeds the 0.5 hectare area threshold therefore consideration has been given as to whether this particular development would be likely to have significant effects on the environment. Consideration has been given to the proposal under Schedule 3 of the Regulations and it is felt that the development would be of no more than local importance, it is not located in a particularly sensitive or vulnerable location and would not have any unusually complex or potentially hazardous effects. The Council accordingly adopted the opinion that the development is not EIA development as defined in the 1999 Regulations as it would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

# **Site Description & Location**

The site has a total area of 0.89 hectares and lies to the south of Sheffield Road close to the Ickles Way roundabout which lies to the west. A business

park (Bessemar Park) lies opposite the site to the north of the road. Warehouses lie to the south and east of the site. There are accesses off Sheffield Road. The site is currently vacant. There has been previous development on the site but the buildings have now been removed. The site slopes downwards from south to north. The site lies within Flood Zone 1 which is has the lowest risk of flooding.

## **Proposal**

The application is for an extension to the time limit for the implementation of planning permission RB2008/0820. This permission comprised 2,544sq.m of B1 office space contained within five separate two storey buildings.

Specifically the approved scheme includes:

- Three buildings with two units each
- Two smaller buildings with one unit giving a total of 8 units
- Formation of a new access off Sheffield Road
- Associated parking and landscaped areas

# **Development Plan Allocation and Policy**

The site is allocated for industrial and business use in the adopted Rotherham Unitary Development Plan. The following policies are therefore applicable:

Policy EC1.1 'Safeguarding Existing Industrial and Business Areas' seeks to support proposals which safeguard the viability of established industrial and business areas.

Policy EC3.1 'Land Identified for Industrial and Business Uses' states that: "Within areas allocated on the Proposals Map for industrial and business use, development proposals falling within Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) will be acceptable, subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses."

Policy ENV3.1 'Development and the Environment' aims to ensure that development should not be at the expense of the local environment and the character and appearance of the area. The Policy aims to achieve environmental improvements through an appropriate standard of design, layout and landscaping.

Policy ENV3.2 'Minimising the Impact of Development' seeks to minimise the impact of development on the environment and looks to protect it from, for example, pollution or flooding. It also states that development leading to a significant loss of trees will be permitted only where there is compelling justification for doing so.

Policy T6 'Location and Layout of Development' aims to locate development close to public transport, discourage development which causes traffic congestion and promote safe and convenient access for pedestrians, cyclists and people with disabilities, as well as ensuring highway safety for car and public transport users.

Circular 05/2005 'Planning Obligations' advises that where a proposed development would, if implemented, create a need for a particular facility that is relavent to planning but cannot be required through the use of planning conditions it will usually be reasonable for planning obligations to be secured to meet this need.

The Community Infrastructure Levy Regulations, which came into force on 6 April 2010 also makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet three out of the five policy tests as set out in Circular 05/2005.

#### **Other Material Considerations**

PPS 1 'Delivering Sustainable Development' sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

PPS 4: Planning for Sustainable Economic Growth sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

PPS9 'Biodiversity and Geological Conservation' aims to enhance the level of biodiversity as part of a development proposal.

PPG 13 'Transport' sets out the objectives to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

## **Publicity**

The application was advertised in the press, on site and via letters to adjacent occupants. No representations have been received in response.

## **Consultations**

Environmental Health raise no objections.

Transportation acknowledges that permission was originally granted for the development in August 2008 subject to several highway/transportation related conditions and a S106 Agreement for the provision of a commuted sum towards the A1 bus service. No objections are raised to the proposals subject to the previous conditions being repeated and the S106 Agreement being revised as appropriate.

Ecology have assessed the survey methods contained within the Smeeden Foreman Ecology Report and consider them to be appropriate. Any on site vegetation should be removed outside of the nesting bird season, unless a suitably trained and experienced ecologist provides written correspondence that there are no nesting birds present. On this basis no objections are raised to the proposals.

Yorkshire Water raise no objections subject to the original recommended conditions being re-imposed.

SYPTE raise no objections subject to the developers contributing financially to the A1 bus service.

Sheffield City Council have requested a contribution towards the Tinsley Link Road, which based on information contained within the original TA will equate to £180,0000.

Highways Agency raise no objections subject to conditions.

## **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions. It states that in the current circumstances Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.

The development proposed in an application for extension will by definition have been judged to be acceptable in principle when originally granted. The Government guidance adds that in making their decision the Local Planning Authority "should focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission."

In this instance the original application (ref: RB/2008/0820) was assessed against criteria contained within government guidance PPG4 'Industrial, Commercial Development and Small Firms' and PPG6 'Planning for Town Centres' which have since been superseded by PPS4 Planning for Sustainable Economic Growth.

The main considerations in the determination of this application therefore consist of the following:

- Principle of Development
- Transportation Issues
- Ecological Considerations

## Principle of Development

In August 2008, when the original application was considered, PPG4 and PPS6 were of relevance and as such the application was determined against the criteria contained within these documents. Since this time both documents have been superseded by PPS4. In this regard it is considered that the following points are of particular relevance in the determination of this application:

- 1. The removal of the 5 tests;
- 2. The retention of the sequential test; and
- 3. The strengthened impact test

The planning application should now be assessed against the following policies of PPS4:

- Policy EC15: The consideration of sequential assessments for planning applications for Main Town Centre Uses that are not in a centre and not in accordance with an up to date development plan;
- Policy EC16: The Impact Assessment for planning applications for Main Town Centre Uses that are not in accordance with an up to date development plan;
- Policy EC17: The consideration of planning applications for development of main town centre uses not in a centre and not in accordance with an up to date development plan.

## Policy EC15 – The Sequential Test

PPS4 retains the sequential test which requires developers to justify why they cannot build in the centre before they seek to build out of centre. This is similar to the prior PPS6 requirement to undertake a sequential assessment and would not affect the sequential assessment of the proposed development which has already been undertaken.

In summary the applicant has set out the following information in relation to the sequential assessment:

'There are now currently 21 sites in and around Rotherham town centre where development opportunities exist and which are being promoted for a range and mix of uses including office development. A number can be regarded as not available as there are prospective users already lined up, alternative planning permissions are in place, the

sites are already developed or the accommodation is not of appropriate stock.

Many of the sites previously identified within the 2008 application are no longer on the market. Of the remaining sites considered as available, they are too small to accommodate the proposed office floorspace. From the information provided it is confirmed that based upon the availability, suitability and viability criteria there are no other sites within the town centre which could accommodate the type of development in the short term.

In assessing the out of centre locations guidance suggests that existing employment locations and clusters which are highly accessible by sustainable transport modes are preferred over other general areas. That would suggest that sites to the north and east of the town centre, for example the Wentworth Park Industrial Estate at Tankersley are too remote. As such they offer locational advantage or any policy preference over the application site.

Likewise some sites are identified along the Sheffield Road Corridor. Whilst in proximity to the application site they are all out of centre and offer no benefits in policy terms.'

Taking into account the fact that the applicants have updated the Sequential Assessment and of the 21 identified sites none are available or adequate for accepted reasons it is considered that the applicants have undertaken the sequential assessment in an appropriate manner and have therefore met the test as set out in Policy EC15 of PPS4.

Policy EC16 – The Impact Assessment

PPS4 also strengthens the impact test to focus on the potential economic, social and environmental effects of the development. PPS4 now sets out the following impact tests:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or in centres in the catchment area of the proposal;
- The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;
- If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres; and
- Any locally important impacts on the centre under policy EC3.1e.

The key issue is the extent to which the proposed development will compete with and harm the vitality and viability of the existing centres, and the extent to

which approving this application for an extension of time to implement the development would prohibit office uses coming forward in a central location, which would undermine its vitality and viability.

In this regard the applicants argue that not all users desire a central location and RIDO acknowledge that most of their enquiries for office accommodation are not for the town centre but for the Central West area including the Sheffield Road Corridor. The applicants also acknowledge that central to the town centre renaissance plans to amalgamate the Council's offices on the former Guest and Chrimes site and the current proposals to extend the time period to commence work on the application site, the application proposals will not undermine this development.

It is therefore considered that by bringing forward areas along Sheffield Road it will enhance this important gateway into the town centre in an area that is served well by public transport. For the reasons outlined above, the impact of the development has been addressed in both the previous application and by the applicants in this current application. It is therefore considered that there will not be any significant adverse impacts on the town centre.

# Policy EC17

Policy EC17 indicates that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused where the applicant has not demonstrated compliance with the requirements of the sequential approach or there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of the impact assessment. In the regard the applicant has provided evidence in the form of a sequential assessment test and assessed the proposed development against the impact assessment under criteria outlined in PPS4.

In summary, consideration of the various PPS4 matters has demonstrated that there are no more centrally located sites which are suitable, available or viable for accommodating the development, the proposals will not undermine the renaissance of the town centre and the site is readily accessible by existing public transport links. Based on the above it is considered that the application meets the criteria set out in PPS4 and is therefore considered to be acceptable in principle.

#### **Transportation Issues**

The original application in 2008 was supported by a Transport Statement and given that it is relatively up to date, a new document was not considered necessary to support this current application. The conclusions of the original statement are therefore accepted and subject to the re-imposition of conditions the Council's transportation department do not raise any objections.

With regard to any change in circumstances since the approval of the 2008 application, Sheffield City Council have adopted an approach that any additional trips generated by a particular development using Junction 34 of the M1 at peak time should trigger a contribution towards the proposed Tinsley Fixed Link Road. In this instance 24 trips were identified in the original Transport Statement, equating to an overall contribution of £180,000.

It is important that the Council takes a consistent approach to contributions towards the link road and previous developments that have demonstrated trips through Junction 34 at peak times have triggered the need for a financial contribution and have been paid accordingly. Despite this, the current application is a renewal of a previous permission which was granted permission prior to the need for a link road being established. Consideration therefore has to be given to whether it is appropriate in this instance to request the contribution from the developer bearing in mind the application is purely for a renewal and could be implemented by commencing work on site prior to August 2011.

When considering previous applications for development that would trigger the need for a contribution, the Highway's Agency have endorsed Sheffield's request, however in this instance they have stated that where the number of trips generated by the new development is less than or equal to the number of trips generated by the current use or consent, they do not generally seek additional mitigation. Of course there are special circumstances where there is a material change which would necessitate the provision of mitigation, however as the trips identified in the extant permission will not be exceeded by this current application, this is not considered to be the case in this instance.

It is acknowledged that the provision of a link road between Meadowhall Way and Sheffield Road under the Tinsley viaduct is expected to bring significant benefits to both Rotherham and Sheffield and the Council will seek to secure contributions where appropriate on new applications, however it is considered that special circumstances apply in this instance to negate the need for a contribution towards its construction.

A Section 106 Agreement was signed under the 2008 permission which required the developer to contribute £2,417 towards the A1 bus service. This contribution is still considered necessary and in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 which states that:

A planning obligation may only constitute a reason for granting planning permission if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related to the scale and kind to the development.

**Ecology** 

The original application (ref: RB2008/0820) was not supported by an ecological survey, however at this time the site was relatively barren and as a consequence conditions requiring further information prior to the commencement of works were considered to be sufficient.

Since this time the site has become vegetated, succeeding from open, rough grassland to scrub habitat with mature trees, providing a suitable habitat for a range of species. As a result an ecological survey and impact assessment were requested to support this current application to enable adequate evaluation of the impact on any protected or prioritised habitats and species and to provide the basis for agreement of any potential future mitigation and landscaping.

This survey confirms that the proposed development will require the majority of the site vegetation to be destroyed. Of the habitats present the grassland is only of value as a semi-natural habitat and the trees are of interest for nesting birds. Despite this there are no ecological constraints to the proposed development and the conclusions and survey methods set out in the report have been accepted by the Council's Ecologist.

Given the above it is not considered that the proposals will have a negative impact on ecology in the immediate area. The proposals therefore comply with the requirements of PPS9 'Biodiversity and Geological Conservation'.

#### Conclusion

Planning permission has previously been granted for the proposed development and the current application relates to an extension of time for the implementation of that permission. While the application should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority should, in making its decision, focus its attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.

The application has been assessed against criteria contained within PPS4 which has superseded PPG4 and PPS6 and consideration of the various PPS4 matters has demonstrated that there are no more centrally located sites which are suitable, available or viable for accommodating the development, the proposals will not undermine the renaissance of the town centre and the site is readily accessible by existing public transport links. Based on the above it is considered that the application meets the criteria set out in PPS4 and is therefore considered to be acceptable in principle.

The transportation impact is considered acceptable, having regard to the conclusions contained within the Transport Statement and the contribution towards the A1 bus service will also improve the sustainability of the site in transport terms.

With regard to any ecological impacts, a survey to establish these was submitted in support of the application which concludes that the proposed development would not have an adverse impact on ecology in the area. The proposal is therefore considered to be acceptable and in accordance with the provisions of PPS9 'Biodiversity and Geological Conservation'.

In conclusion, in the intervening period since the original planning permission was granted permission on 12 August 2008, it is not considered that there have been any development plan policies or other material considerations which have changed significantly since the original grant of permission, such as to now justify a refusal of planning permission.

## ITEM 2

Application for realignment and dual carriageway improvements to the A57, including controlled pedestrian crossings, and roundabout at Todwick crossroads at land at Sheffield Road, Todwick for RMBC (Design and Engineering Service).

REF: RB2011/0628

### Recommendation

- A. That the application be referred to the National Planning Casework Unit under the Town and Country Planning (Consultation) (England) Direction 2009.
- B. That consequent upon the National Planning Casework Unit deciding not to intervene, the Borough Council resolves to grant permission for the proposed development subject to the following reasons for grant and conditions:

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

- 1. Having regard to the Development Plan and all other relevant material considerations as set out below:
- a) Development Plan
- (i) Regional Strategy:

Policy SY 1 South Yorkshire sub area Policy amongst other things seeks to:
- implement stronger transport demand management, particularly in Sheffield and related to the strategic road network, and coordinate development with this and transport investment.

- Secure excellent road, rail, inland waterway and air links between South Yorkshire and the rest of the UK and beyond.

## (ii) Unitary Development Plan:

Policy ENV 1 Green Belts states that inappropriate development will only be allowed where there are very special circumstances to clearly outweigh the harm to the openness of the Green Belt.

Policy ENV 2.2 Interest Outside Statutorily Protected Sites states that where development affects any interest it will only be allowed where it has been demonstrated that the benefits of the scheme clearly outweigh the need to safeguard the interest.

Policy ENV 2.3 Maintaining the Character and Quality of the Environment states that where development affects an environmental interest any damage should be justified and mitigated to an acceptable degree.

Policy ENV 3.2 Minimising the Impact of Development states that development should seek to minimse the impact on the environment.

Policy ENV 3.4 Trees and Woodlands and Hedgerows seeks to promote and enhance the trees and woodland coverage throughout the Borough.

Policy ENV 3.7 Control of Pollution seeks to minimise the impact of pollution.

Policy T2 Major Road Schemes and Highway Improvements states that the Council will promote appropriate schemes on the major road network.

Policy T3 Public Transport states that the Council will support the development and improvement of public transport.

## b) Other material considerations

The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels.

The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") Identifies Bats as a European Protected Species (EPS) and all species of bats are given the highest level of protection under the regulations.

## Central Government Guidance:

Ten Year Transport Plan seeks amongst other things to reduce traffic congestion and delay, traffic emissions and highway deaths.

PPS 1 Delivering Sustainable Development seeks to effectively protect the environment by the promotion of sustainable development.

PPG 2 Green Belts amongst other things states that inappropriate development will only be allowed where there are very special circumstances to clearly outweigh the harm to the openness of the Green Belt.

PPS 9 Biodiversity and Geological Conservation states that all development should have minimal impact on biodiversity and enhance it where possible.

PPG 13 Transport states amongst other things that the impact of highway schemes should minimise the impact on the environment and should be considered in the light of alternatives to highway improvements.

PPG24 'Planning and Noise' provides guidance in relation to both noise generating and noise sensitive developments. The guidance states that where practical the planning system should ensure that noise sensitive developments are separated from major sources of noise, including certain types of industry. Where it is not possible to achieve separation of land uses the Local Planning Authority should consider whether it is practical to control or reduce noise levels or mitigate the impact of noise through planning conditions.

Circular 2/99 Environmental Impact Assessment gives guidance and criteria relating to assessing the need for an Environmental Statement in connection with development proposals.

Circular 06/2005: 'Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System' notes that Councils have a statutory duty under the Regulations to have regard to the requirements of the Habitats Directive in the exercise of its functions.

# 2. For the following reasons:

The proposal represents inappropriate development in the Green Belt and at certain locations would have a significant impact on the openness of the Green Belt. Planning permission has previously been granted for the realignment of the A57 in this location and the principle of the development is, therefore, acceptable. Additionally, the proposals for the highway are identified as a regional transport priority and this is one of two major highway schemes in Rotherham in the South Yorkshire Local Transport Plan. The main variations in the current scheme in relation to the previous approved scheme are the removal of the pedestrian subway at the western end of the proposals and its replacement with a controlled pedestrian crossing, including a reduction in land take, the reduction in the speed limit from derestricted to 50 mph, improved equestrian linkages, and significant consideration of boundary treatment and landscaping. The amendments will reduce carbon emissions and there will be a small reduction in the impact of the proposals on the openness of the Green Belt.

This section of the A57 has significant problems relating to its alignment and configuration, highway over capacity and accident record. The proposals will address these issues, and assist in meeting the Government's obligation to reduce greenhouse gas emissions. It is therefore considered that the proposal would have a positive effect on the environment and would be in accordance with all the above referred to policies and advice by way of the ecological

enhancements, significant benefits of the road improvement scheme in terms of highway safety, improved traffic flows, and improved access to the local, regional and national road network, thereby better facilitating the regeneration of Dinnington and South Yorkshire Technology Corridor as well as the area as a whole.

It is considered that the short term localised adverse effect of the proposal on the landscape and ecology will be mitigated to an acceptable degree and in the longer term will result in an enhancement to these issues of acknowledged importance.

In conclusion it is considered that the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (identified above), so as to amount to the very special circumstances necessary to justify the development.

3. The forgoing statement is a summary of the main considerations leading to the decision to grant planning permission. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

## **Conditions & Reasons Imposed:**

1.

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

In order to comply with the requirements of the Town and Country Planning Act 1990.

2.

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority.

(Drawing numbers 122/A57(T).51A/PA1001 and PA1002 rev A).

To define the permission and for the avoidance of doubt.

3.

No development, including any demolition and groundworks, shall take place until a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation has been submitted to, and approved in writing by, the Local Planning Authority. The WSI shall include:

- The programme and method of site investigation and recording.
- The requirement to seek preservation in situ of identified features of importance.
- The programme for post-investigation assessment.
- The provision to be made for analysis and reporting.

- The provision to be made for publication and dissemination of the results.
- The provision to be made for deposition of the archive created.
- Nomination of a competent person/persons or organisation to undertake the works.
- The timetable for completion of all site investigation and post-investigation works.

The WSI shall be carried out in accordance with those approved details.

To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated.

4. Surface water from areas likely to receive petrol/oil contamination shall be passed through effective oil/grit interceptors prior to discharge to any sewer or watercourse.

To prevent pollution of any watercourse in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

5. Details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work, shall be submitted to and approved by the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.

To ensure that the development can be properly drained in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

6.

No tree shall be cut down, uprooted or destroyed nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

Prior to commencement of development, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

- -The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
- -The extent of any changes to existing ground levels, where these are proposed.
- -Any constraints in the form of existing or proposed site services, or visibility requirements.
- -Areas of structural and ornamental planting that are to be carried out.
- -The positions, design, materials and type of any boundary treatment to be erected.
- -A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- -A written specification for ground preparation and soft landscape works.
- -The programme for implementation.
- -Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme within a timescale agreed, in writing, by the Local Planning Authority.

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows

Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

9. No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is

completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

#### 10.

All tree works shall be carried out in accordance with B.S.3998: 2010. The schedule of all tree works shall be approved by the Local Planning Authority before any work commences and no tree work shall commence until the applicant or his contractor has given at least seven days notice of the intended starting date to the Local Planning Authority. The authorised works should be completed within 2 years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

#### 11.

Before the development hereby approved is commenced on site a scheme detailing noise mitigation measures for the properties "Orchard House" and Leadhill Lodge," shall be submitted to, and approved in writing by, the Local Planning Authority and shall be implemented in accordance with those approved details?, concurrently with the highway works hereby approved.

In the interests of the residential amenities of existing residents in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan.

## 12.

Within the first available planting season after the commencement of the development hereby approved is commenced on site the ecological mitigating measures identified in the submitted Ecological Assessment shall be implemented.

In order to enhance the biodiversity and geological interests of the area in accordance with Policy ENV 2.3 Maintaining the Character and Quality of the Environment, ENV 3.2 Minimising the Impact of Development, and ENV 3.4 Trees Woodlands and Hedgerows of the Unitary Development and advice in PPS 9 Biodiversity and Geological Conservation.

#### 13.

Before the development hereby approved is commenced on site a scheme of ecological enhancement proposals shall be submitted to, and approved in writing by, the Local Planning Authority, and the approved scheme shall be carried out within the first available planting season after the development is first commenced on site.

In order to enhance the biodiversity and geological interests of the area in accordance with Policy ENV 2.3 Maintaining the Character and Quality of the Environment, ENV 3.2 Minimising the Impact of Development, and ENV 3.4 Trees Woodlands and Hedgerows of the Unitary Development and advice in PPS 9 Biodiversity and Geological Conservation.

### **Informatives**

# INF 11A Control of working practices during construction phase (Close to residential)

It is recommended that the following advice is followed to prevent a nuisance/ loss of amenity to local residential areas. Please note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust. If a statutory nuisance is found to exist they must serve an Abatement Notice under the Environmental Protection Act 1990. Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in Rotherham Magistrates Court. It is therefore recommended that you give serious consideration to the below recommendations and to the steps that may be required to prevent a noise nuisance from being created.

- (i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.
- (ii) Heavy goods vehicles should only enter or leave the site between the hours of 08:00 18:00 on weekdays and 09:00 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).
- (iii) Best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.
- (iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be

removed immediately by the developer.

## **INF 25 Protected species**

## Wildlife Legislation

The protection afforded to protected sites and species under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt and an appropriately qualified ecologist consulted.

The main piece of legislation relating to nature conservation in Great Britain is the Wildlife and Countryside Act 1981. This Act is supplemented by the Conservation of Habitats and Species Regulations 2010 (Habitat Regulations), the Countryside and Rights of Way (CRoW) Act 2000 (in England and Wales) and the Natural Environment and Rural Communities (NERC) Act 2006 (in England and Wales).

All species of bats and their roosts are protected by UK and European legislation. Roosts are equally protected whether bats are present or not.

The Great Crested Newt is protected by UK and European legislation. The legislation covers all life stages; eggs, tadpoles and adult newts are all equally covered.

Otters and their holts, including hovers and couches, which are otter resting places above ground, are protected by UK and European legislation.

Water Vole are protected against killing, injuring or taking; possession or control; damage or destruction of its places of shelter, or disturbance while such animals are occupying places of shelter.

All birds, their nests and eggs are protected by UK law and it is an offence, with certain exceptions, to kill, injure or take any wild bird, to take, damage or destroy the nest of any wild bird while it is in use or being built, and to take or destroy the egg of any wild bird. Certain species receive increased protection making it an offence to disturb any wild bird listed in Schedule 1 while it is nest building or is at (or near) a nest with eggs or young; or disturb the dependant young of such a bird.

Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett. Interference with a sett includes blocking tunnels or damaging the sett in any way.

The information provided is a summary only; for definitive information, primary sources should be consulted.

## INF 27 Stopping Up/Diversions of Public Rights of Way

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

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

## **Environment Agency Informatives:**

## Advice to applicant:

If any controlled waste is to be removed from the site, the site operator must ensure they use a registered waste carrier to convey the waste material off site to a suitably authorised facility. If the operator would like more development specific advice they will need to contact the Environment Management Team at our Templeborough offices with further details of the proposal on 01709 312785 or look at available guidance on our website <a href="https://www.environment-agency.gov.uk/subjects/waste/">www.environment-agency.gov.uk/subjects/waste/</a>

The Duty of Care regulations for dealing with waste materials are applicable for any movement of wastes off the site. The developer as a waste producer therefore has a duty of care to ensure all materials removed go to an appropriate licensed disposal site and all relevant documentation is completed and kept in line with waste management regulations.

If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information provided.

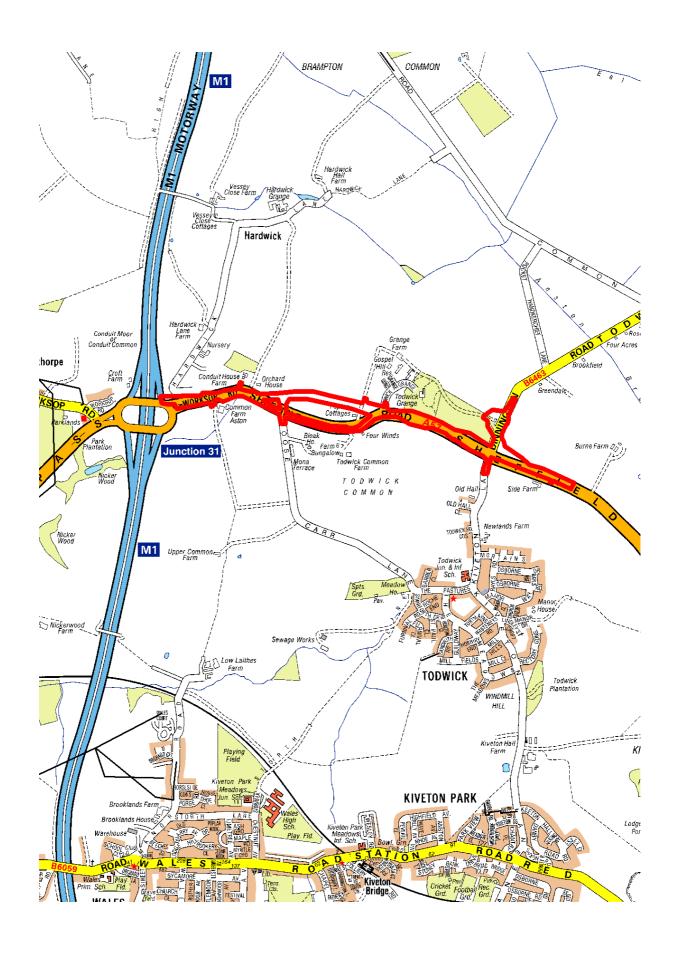
If the applicant wishes more specific advice they will need to contact the Environment Management Team at our Templeborough office on 01709 312785 or look at available guidance on our website <a href="http://www.environment-agency.gov.uk/subjects/waste">http://www.environment-agency.gov.uk/subjects/waste</a>.

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to off site incineration and disposal to landfill during site construction.

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one

document, having a SWMP will help you to ensure you comply with the duty of care.

Further information can be found at <a href="http://www.netregs-swmp.co.uk">http://www.netregs-swmp.co.uk</a>



## Background

The site of application comprises arable farmland and a stretch of highway which and has been the subject of two previous permissions for realignment and dual carriageway improvements in the past.

The highway is the A57 between Junction 31 of the M1 and B6463 Todwick Crossroads and was formerly part of the TR59 Liverpool to Sheffield, Skegness Trunk road and is a major strategic distributor highway in the area with a high proportion of commercial traffic.

The proposals for the highway are identified as a regional transport priority and this is one of two major highway schemes in Rotherham in the South Yorkshire Local Transport Plan.

The highway has a long history of serious and fatal injury accidents primarily related to a severe substandard horizontal alignment and substandard bends, which take traffic close to residential properties. In addition it was identified in 1996 that the traffic levels on the A57 were well in excess of those recommended for single carriageway roads and indeed fell within the suggested design range for a Dual Two Lane All Purpose carriageway. The road also forms part of the main route to and from the Dinnington Regeneration Area which lies within the South Yorkshire Technology Corridor Strategic Economic Zone, targeted for growth by the Objective 1 Programme. Rotherham Borough Council as agents for the Highway Agency were commissioned to provide proposals for the improvement of the section of highway referred to. Following de-trunking of the road in July 2001, Rotherham MBC progressed the proposals by submitting a bid for funding to the Department for Transport (DfT). This bid was provisionally accepted by the DfT in December 2001, subject to satisfactory completion of statutory procedures.

A planning application was submitted on the 16<sup>th</sup> June 2003 (RB2003/1036) The application was for a dual carriageway between Junction 31 of the M1 Motorway, and Todwick Crossroads with a roundabout some 60m to the north of the existing Crossroads. The dual carriageway continued to the east of the roundabout for approximately 640m, then merged into the existing single carriageway road. The scheme also included a controlled pedestrian crossing immediately to the west of the proposed roundabout, and a pedestrian subway at the western end of the roadway near Common Farm and other residential properties either side of the road.

A screening opinion in accordance with the Town and Country Planning Environmental Impact Regulations 1999, was carried out in respect of the application on the 25 June 2003. The Authority was of the opinion that the proposal did not require the submission of an Environmental Impact Assessment.

Members supported the scheme and the application was referred to the Government Office as a departure, though the Government Office

subsequently indicated that they did not wish to intervene. In addition, it was concluded that the proposals did not require an Environmental Statement, and the Council was able to determine the proposal. The application was granted permission subject to conditions in December 2004.

The second application, reference RB2009/0260, was for a similar scheme to that approved under RB2003/1036. Once again the proposals were for a dual carriageway between Junction 31 of the M1 Motorway, and Todwick Crossroads with a roundabout some 60m to the north of the existing Crossroads. To the east of the roundabout the highway would merge into the existing single carriageway road, over a distance of approximately 300m.

The amended scheme was very similar to that granted permission in 2004, the main differences being:-

- (i) Amendments to the roundabout creating a fifth leg to serve the Red Lion.
- (ii) Removal of the dual carriageway to the east of the roundabout (approximately 600m of elevated carriageway)).
- (iii) Additional length of road to the north in Todwick Road.
- (iv) New bridleway/footpath north of the A57 adjacent to the northern subway access.
- (v) Southern subway ramp extended.
- (vi) Small additional land-take at access to Grange Farm.
- (vii) No slip way from the new west bound carriageway to the old A57 and a cul-de-sac with a turning head created.

For the majority of new road line, the carriageway would have been at the existing ground levels or in a shallow cutting. For approximately 500m to the east of the existing access to Hardwick Lane, and including the Goosecarr Lane junction, the new road would have been elevated in relation to the land levels to the south of the carriageway, and below existing land levels to the north. From there on the road would have been in a cutting up to and including the new roundabout. To the east of the roundabout, the road would have merged into the existing single carriageway A57, over a distance of approximately 300m, and apart from a small section near the southern boundary adjacent Side Farm Nursery, would have been at or below existing land levels.

To the south of the roundabout along Kiveton Lane the road would have been at the same level as the Red Lion on the eastern side, and below an existing embankment on the western side. To the north of the roundabout along Todwick Road the new road would have been in a cutting. Additionally a fit for purpose scheme to the east of the proposed roundabout resulted in a reduced land take, and removal for the need for a one way system to access the Red Lion and the nearby Garden Centre.

Overall, the second scheme constituted a net reduction of approximately 5% in the amount of land required to form new carriageway and consequently the revised scheme achieved an additional benefit in terms of reduced impact on the Green Belt.

A further screening opinion was carried out in relation to the planning application which concluded:

"It is not considered that the application proposed is of more than local importance; it is not located in a particularly environmentally sensitive or vulnerable location and would not have any unusually complex or potentially hazardous environmental effects. It is therefore considered that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the Local Planning Authority has adopted the opinion that the development referred to is not EIA development as defined in the 1999 Regulations."

The application was referred to the Government Office as a departure and once again the Government Office indicated that they did not wish to intervene, and the application was granted permission subject to conditions in June 2009.

A third screening opinion has been carried out, in respect of the current application, which reaches the same conclusion as that carried out on the second scheme RB2009/0260.

As a result of the judgment in the Cala Homes (South) Ltd case Regional Strategies have been reinstated as part of the statutory 'development plan.' Decisions on planning applications therefore must be made in accordance with the 'development plan' unless material considerations indicate otherwise (S.38(6) of the Planning and Compulsory Purchase Act 2004). The Government's proposal to abolish Regional Strategies is capable, as a matter of law, of being a material consideration – the weight to be given to it is a matter for the decision maker.

## **Site Description & Location**

Travelling east from Junction 31 of the M1 Motorway, the A57 is a dual carriageway for a distance of approximately 400m. The road then changes to a single carriageway which is severely substandard in terms of horizontal alignment and curve radii, and winds its way to Todwick Crossroads, past its junction with Goosecarr Lane on the southern side. The surrounding area is undulating arable farm land with sporadic farmsteads and residential properties on either side of the highway. At the western end of the road Conduit House Farm, Orchard House, and Common Farm, which has been converted to four residential units, all have access direct to the A57. Just over half way between the M1 and Todwick Crossroads, on the northern side, is Todwick Grange and a small development of residential properties all served by a direct access to the A57.

## **Proposal**

As under the previous permission, the application is for a dual carriageway between Junction 31 of the M1 Motorway, and Todwick Crossroads with a roundabout some 60m to the north of the existing Crossroads. To the east of

the roundabout the highway would merge into the existing single carriageway road, over a distance of approximately 350m, as previously approved. The proposal will be in accordance with design guidance adopted by the Highway Authority, supported by good practice detailed in the Department for Transport "Design Manual for Roads and Bridges." The proposed highway would have two 7.3m wide carriageways and a 4.6m central reserve and 3m footway/cycle ways on either side.

The current scheme is very similar to that granted permission in 2009 (RB2009/0260) the main differences being:

1

Change in the proposed speed limit, reduced to 50 mph from derestricted, to achieve cost saving as part of the best and final offer bid to DfT.

2.

Replacement of the previously proposed underpass with an at grade signal controlled crossing, requiring less land take, to achieve cost saving as part of the best and final offer bid to DfT.

In addition, significant consideration of the boundary treatments and landscaping has also been designed into the scheme.

The application is accompanied by a Design and Access Statement, a Planning Statement (containing details on noise, archaeology, air quality, and street lighting), an Ecological Impact Assessment, a Tree Survey Report, and a Flood Risk Assessment.

An exhibition of the scheme details was held at the Red Lion Inn on 7<sup>th</sup> and 8<sup>th</sup> April 2011 to publicise the changes to the previous proposals.

The Design and Access Statement:

Outlines the background to the proposals as described in the Background section above along with reasoning for the latest scheme which states: "A compulsory purchase order (CPO) and side roads order (for the 2009 scheme) were made in October 2009, and forwarded to the then Government Office in Newcastle for confirmation. Objections to the scheme were received and a public inquiry ordered. However, before the inquiry could take place, the scheme was suspended by the new Coalition Government in anticipation of the forthcoming comprehensive spending review.

The Department for Transport Document 'Investment in Local Major Transport Schemes,' produced in conjunction with the comprehensive spending review, reaffirmed support for the scheme by allocating the scheme 'supported pool' status, - one of only ten local schemes in the country to receive this status. However, the document also laid out the need for cost saving and value maximisation opportunities to be explored, therefore allowing, within certain limits, changes to scope and the development and adoption of lower cost alternatives. Such alternatives must still represent good value for money but may exhibit lower benefits to costs ratios (and at the same time lower costs) than the preferred scheme.

In light of some of the objections received at the time of the making of the Compulsory Purchase Order (CPO) and Side Roads Order (SRO), a lower cost alternative to the 2009 proposal was developed that reflects community comment regarding the desire for a 50mph speed limit and an at grade signalised crossing for pedestrians and equestrians immediately to the west of Goosecarr Lane. The latter feature will replace the previously proposed subway and the improved road will have a 50mph speed limit. The previously proposed hard strips will also be deleted due to the lower speed limit. These will be replaced by verges to ensure that the separation of vehicular traffic from pedestrians is maintained."

The scheme is virtually identical to that approved in 2009 in respect of the following:

- Improved equestrian linkages to Bridleway 7 giving connectivity for users with the southern carriageway on the new A57 and also a horse path connection from the proposed crossing direct to Goosecarr Lane (via at grade crossing as opposed to subway).
- Provision of 3m wide shared use footway/cycleway to both sides of the proposed route.
- A new five arm roundabout at Todwick Crossroads.
- The new highway will be at or similar to existing ground levels for the whole of its route and placed in cutting where this allows.
- Direct access to the A57 from Conduit House Farm and Orchard House will not be allowed and the access roads will be diverted westwards, to join the A57 at the original access to the existing dual carriageway.
- Access to Goosecarr Lane will be from a point approximately 80m to the north at a 'left in/left out' access on to the new dual carriageway. Potential vehicle conflicts will therefore be reduced due to the prohibition of all right turn manoeuvres.
- The section of old road to the west will be redesigned to provide the proposed horse path and field access if required.
- To the east, the old road will be retained and designed as a 'country lane' to provide access only to Poplar Cottages and the cluster of buildings around Todwick Common Farm. All vehicles accessing and egressing these properties will do so along the old road and then Goosecarr Lane. A turning head will be provided at the eastern limit.
- Access to Todwick Grange and the residential development within the grounds will also be at a left in left out arrangement. The existing access to Lead Hill Lodge off Todwick Road will be closed and a new one created

approximately 110m to the north of the proposed roundabout, on the western side of Todwick Road.

- It is anticipated that the majority of field accesses will be unaffected. Where this is not the case or where field severance is likely then new field accesses will be provided from those retained sections of the old road and it is not proposed that any new points of access will be needed on the new dual carriageway sections.
- Bus stops are provided either side of the new roundabout, and one near the Beeches for east bound traffic. The west bound carriageway at this end of the scheme has an existing bus stop provision which will remain.

### The Planning Statement:

4.

Identifies existing problems and issues relating to this length of highway to be:

Poor horizontal and vertical alignment on an important strategic route which serves to link the M1 Motorway and the A1 to the east. High incidence of accidents. Data from January 2000 to December 2010 reveals that there have been five fatal accidents (10 fatal casualties), thirteen serious accidents (26 serious casualties), and eighty two slight accidents (144 slight casualties).

Clear need to address highway capacity issues. As far back as 1996 the traffic flows on the A57 were already in excess of those recommended in the then current TD 20/85 for a single carriageway road and this resulted in the road being within the suggested design range for a Dual (two-lane) All Purpose carriageway (D2AP). Previous analyses have also identified capacity issues at both the existing Goosecarr Lane / A57 junction and the Todwick crossroads junction during peak times.

3.

The most significant problems occur at the signal controlled A57 / Todwick Road / Kiveton Lane crossroads. Analyses demonstrate that the junction is frequently operating at capacity or near capacity in both the morning and evening peak periods. Given the continued traffic growth and ongoing regeneration aspirations for Dinnington this situation is forecast to worsen. In addition, vehicles emerging from Goosecarr Lane experience capacity problems, particularly during the morning peak hour. Without the introduction of the improvements proposed these issues are predicted to worsen in future years, leading to more vehicular delay and associated problems.

Traffic data has been collected regularly throughout the development of the scheme, with significant traffic flow surveys collated in 1998, 2001, 2003, 2005 and most recently in 2007/08. Since 2001, traffic has continued to increase at a rate that compares with National Road Traffic Forecasts (NRTF) high growth forecasts. This rate of increase has been calculated from 24 hour Automatic Traffic Count (ATC) data and Manual Classified Count (MCC) data. In addition, the regeneration of Dinnington continues resulting in a corresponding increase in traffic. The existing situation does little to enhance the important regeneration potential of this area.

The Planning Statement goes on to indicate that in terms of reassigned traffic volumes:

"Traffic flows range from 3,000 vehicles on Goosecarr Lane to approximately 35,000 vehicles (two way flow) on the A57 approach to the M1 motorway.

As a result of the proposed banned right turn the 18 hour traffic flows indicated that there would be a reduction of approximately 1,350 vehicles on Goosecarr Lane, which would be routed through the proposed roundabout improvement scheme at Todwick Crossroads. This equates to approximately 75 vehicles per hour on average.

On Goosecarr Lane this represents a reduction of approximately 40% on average through the day. Conversely the increase in vehicles on Kiveton Lane equates to approximately 20% on average and from detailed analysis, equivalent to one vehicle per minute in the morning peak hour and three vehicles per minute in the evening peak.

Operational capacity assessments have been undertaken for the existing signal controlled Todwick Crossroads and the results show that the junction was over capacity in 2007 and queues and delays will continue to increase until the design assessment year of 2023. Should the proposed scheme be implemented, operational capacity assessments have been undertaken for the proposed roundabout junction at Todwick Crossroads. Assessment of the junction has been completed for the opening year of 2013 and design year of 2023, which is consistent with latest guidance. The junction was tested at each assessment year during the morning and evening peak, these assessments demonstrate that the roundabout functions within capacity in the opening year of 2013 and design year of 2023 for both AM and PM peaks.

#### Noise impact:

The Planning Statement includes information relating to noise impact which indicates that Orchard House, and Leadhill Lodge will be affected by a noise increase. Additionally other properties in Kiveton Lane will receive a small noise increase due to the additional traffic passing through Todwick. This small increase would also apply to properties fronting Kiveton Lane to the junction with The Pastures. The proposal has a positive or neutral effect on all other properties within the vicinity. There is a significant benefit with regard to Poplar Cottages and the Red Lion. There will also be a reduced level of noise for houses on Goosecarr Lane. Overall, the amendment to the scheme in the reduction in speed limit from derestricted (as previously approved) to 50mph would have a small benefit in terms on noise impact.

#### Air Quality:

As with the noise impact, the amendment to the scheme in the reduction in speed limit from derestricted (as previously approved) to 50mph would have a benefit in terms of air quality. This, combined with the improvements to the

existing highway geometry and junctions would lead to a reduction in carbon emissions of the order of 60,000 tonnes in the year of opening, and by considering the operation of street lighting the scheme will help to further reduce energy and carbon output.

### Street Lighting:

The area is classified as a low district brightness area. Proposed lighting will be designed having regard for light pollution, energy efficiency, and the requirements of current lighting standards. The section of carriageway between Goosecarr Lane and the approach to the new roundabout will not be illuminated. Any lighting selected will have sharp cut off characteristics with no upward light and will be controlled by photo electric cells to maximise energy efficiency. This is a proposed change to the scheme approved in 2009 which proposed to light this section of the highway.

### **Ecological Assessment:**

The development would result in the removal of some woodland and hedgerows, but it is considered that the effect will be localised and relate to the zone of immediate effect of the development. Effects will be mitigated by reinstatement of field boundaries, hedgerows and planting of strategically located woodland.

No nationally important species have been identified, and once again the effect will be localised to the zone of immediate effect from the development. No bat roosts have been identified and there would be limited effect on forage areas. Any effect would be limited to the immediate zone of influence in an area where suitable foraging is abundant. This is similarly the case with the Brown Hare and bird species in the area.

#### Flood Risk Assessment:

Focuses on management of surface water run off, which will be retained at its current rate. The new highway will drain to the existing highway drainage system, the western section to a retention system near the M1 Motorway and then discharge to Pigeon Bridge Brook. Water from the eastern section will go to retention facilities near the new roundabout at Todwick Crossroads and then to Anston Brook. The retention facilities will allow for a 1 in 30 years storm. All this is as approved under the 2009 scheme.

#### Archaeology and Cultural Heritage

The archaeological information submitted re-iterates that submitted with the 2009 application, noting that several sites will be affected by the proposed new road scheme. Some of these will be impacted directly, such as the site of Grange Lodge, while in other cases, the settings of listed structures will be affected. A 2011 aerial photo study has also located two crop-mark sites that were not identified by previous reports, possibly field boundaries, a trackway, or an enclosure.

Previously unknown archaeological deposits cannot be ruled out and a variety of archaeological mitigation may be required in discussion with the South Yorkshire Archaeology Service (SYAS) planning archaeologists prior to ground works taking place. Further surveys, monitoring and investigations, and dialogue with the SYAS are on-going in this respect. Mitigation strategies for any impacts are provided, in consultation with SYAS.

### Tree report

As in the previous 2009 application, the report concludes that numerous trees will need to be removed as a result of the proposals, to the west of the site in front of Common Farm, to the western boundary of Todwick Grange, along Lead Hill road, and along the A57 to the west of Todwick Crossroads. The majority of the trees to be removed are of low quality and their loss is considered negligible. However there are several trees of greater quality and one high quality which will need to be removed.

## **Development Plan Allocation and Policy**

### (i) Regional Strategy:

Policy SY 1 South Yorkshire sub area Policy amongst other things seeks to:

- (i) Implement stronger transport demand management, particularly in Sheffield and related to the strategic road network, and coordinate development with this and transport investment.
- (ii) Secure excellent road, rail, inland waterway and air links between South Yorkshire and the rest of the UK and beyond.

### (ii) Unitary Development Plan:

The site is within the Green Belt and the following Policies are considered to be relevant.

### Policy ENV1 Green Belt:

"A Green Belt whose boundaries are defined on the Proposals Map will be applied within Rotherham Borough. In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- (i) agriculture and forestry (unless permitted development rights have been withdrawn).
- (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it,
- (iii) limited extension, alteration or replacement of existing dwellings, and

(iv) limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing)."

Policy ENV2.2 Interest outside Statutorily Protected Sites:

"Proposals which would adversely affect, directly or indirectly, any key species, key habitat, or significant geological or archaeological feature, will only be permitted where it has been demonstrated that the overall benefits of the proposed development clearly outweigh the need to safeguard the interest of the site or feature."

Policy ENV2.3 Maintaining the Character and Quality of the Environment:

"In considering any development or other proposals which would unavoidably damage an existing environmental interest, prior to determining a planning application, the Council will require the application to be supported by adequate survey, evaluation, recording and, where appropriate, details of renovation or repair of historic fabric and rescue or relocation of features or species of particular merit. Damage to the existing environmental interest should be reduced to a minimum and, where possible, the interest which is retained should be enhanced. In addition there must be adequate compensation for any significant losses through landscaping, habitat creation or other environmental enhancement."

Policy ENV3.2 Minimising the Impact of Development:

"In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impact on the environment, including water resources, and to conserve and improve its quality. It will permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so."

Policy ENV3.4 Trees, Woodlands and Hedgerows:

"The Council will seek to promote and enhance tree, woodland and hedgerow coverage throughout the Borough."

Policy ENV3.7 Control of Pollution:

"The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport. Planning permission will not be granted for new development which:

(i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided

by incorporating preventative or mitigating measures at the time the development takes place, or

(ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.

The Council will employ all its available powers and where appropriate will cooperate with and support other agencies, to seek a reduction in existing levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti. Where concerns arise, the Council will in appropriate cases monitor or require the monitoring of levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti, in furtherance of this Policy objective."

Policy T2 Major Road Schemes and Highway Improvements:

States that the Council will promote appropriate schemes on the major road network and other major road schemes which:

- (i) Improve access to the national road network,
- (ii) Reduce congestion, and in particular delays to public transport,
- (iii) Remove extraneous traffic from town centres,
- (iv) Support the development of strategic regeneration areas,
- (v) Improve access and servicing of existing industrial areas, local centres and new development sites,
- (vi) Support traffic calming and amenity benefits in residential areas, assist public transport access to local communities,
- (vii) Create improvements for more vulnerable road users, including pedestrians, people with disabilities and cyclists and
- (viii) Enhance road safety.

#### Policy T3 Public Transport:

States that the Council will support the development and improve improvement of facilities for users of public transport in both urban and rural areas, having due regard to the requirements of special needs groups and opportunities to make public transport more competitive with the private car.

### Other material considerations:

The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels.

The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") - Bats are identified as a European Protected Species (EPS) and all species of bats are given the highest level of protection under the Regulations.

The "Habitats Regulations" consolidate and update the Conservation (Natural Habitats, &c.) Regulations 1994 ("the 1994 Regulations")..

The "Habitats Regulations," which are made under section 2(2) of the European Communities Act 1972, are the principal means by which Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the "Habitats Directive") is transposed for England and Wales and territorial seas.

Regulation 9(5) of the "Habitats Regulations" states: "Without prejudice to the preceding provisions, a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."

#### Central Government Guidance:

Ten Year Transportation Plan, 2000 aims amongst other things to:

- (i) Reduce road congestion on the, inter urban network and in large urban areas in England below current levels by 2010 by promoting integrated transport solutions and investing in public transport and the road network.
- (ii) To improve air quality by meeting our national air quality strategy targets for carbon monoxide, lead, nitrogen dioxide particles, sulphur dioxide, benzene and 1-3 butadiene.
- (iii) To reduce green house gas emissions by 12.5% from 1990 levels, and move towards a 20% reduction in carbon dioxide emissions by 2010.
- (iv) To reduce the number of people killed or seriously injured in road accidents by 40% by 2010 and the number of children killed or seriously injured by 50% compared with the average for 1994-1998.

This advice is further emphasized in the White Paper "The Future of Transport - a Network for 2030" (July 2004), which commits the government to four shared priorities:

- (i) Delivering accessibility.
- (ii) Tacking traffic congestion.
- (iii) Improving air quality.
- (iv) Improving safety on roads.

PPS1 Delivering Sustainable Development.

Has the core principle of sustainable development and amongst other things aims to:

- (i) Effectively protect the environment.
- (ii) Promote prudent use of natural resources.
- (iii) Protect and enhance the natural and historic environment.
- (iv) Address the causes and potential impacts of climate change.

It goes on to say amongst other things that Local Authorities should:

- (i) Ensure that infrastructure and services are provided to support new and future economic development and housing.
- (ii) Identify opportunities for future investment to deliver economic objectives.

The Supplement to PPS1 "Planning and Climate Change" reinforces and emphasises the importance of addressing climate change and states:

"The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development." It adds that "Changes in climate are likely to have far-reaching and potentially adverse, effects on our environment and society for which we need to prepare and adjust." It adds that "Where there is any difference in emphasis on climate change in this PPS and others in the national series this is intentional and this PPS takes precedence."

The Supplement to PPS 1 "Planning and Climate Change" adds that the planning system should help to "secure enduring progress against the UK's emissions targets by direct influence on energy use and emissions," and that one of the "Key Principles" is to; "make a full contribution to delivering the Government's climate change programme and energy policies and in doing so contribute to global sustainability."

It goes on to say that where strategic (RSS) and local plans (LDF) have not been updated to reflect this supplementary PPS, planning authorities should have regard to this PPS as a material consideration which may supersede policies in an existing development plan.

PPG2 Green Belts states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances.

Paragraph 3.2 states that "Inappropriate development is by definition harmful to the Green Belt." "Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development."

PPS9 Biodiversity and Geological Conservation has a broad aim that planning, construction, development and regeneration should have minimal impacts on biodiversity and enhance it where possible.

PPG13 Transport, states that the impacts of new infrastructure proposals should be minimised as far as possible and that such development should be considered in the light of an environmental appraisal. It also states that the

range of alternatives to solutions to road traffic problems other than road improvement should be considered (NATA: New Approach to Appraisals)

PPG 24 'Planning and Noise' provides guidance in relation to both noise generating and noise sensitive developments. The guidance states that where practical the planning system should ensure that noise sensitive developments are separated from major sources of noise, including certain types of industry. Where it is not possible to achieve separation of land uses the Local Planning Authority should consider whether it is practical to control or reduce noise levels or mitigate the impact of noise through planning conditions.

Circular 2/99 Environmental Impact Assessment gives guidance and criteria relating to assessing the need for an Environmental Statement in connection with development proposals.

Circular 06/2005: 'Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System' notes that Councils have a statutory duty under the Regulations to have regard to the requirements of the Habitats Directive in the exercise of its functions.

### **Publicity**

The application was advertised on site and in the press and 22 letters of representation have been received. Points raised are:

- (i) Loss of right turn lane into Goosecarr Lane resulting in longer journeys and more petrol consumption.
- (ii) Impact of additional traffic on the Todwick Junior and Infants school.
- (iii) Congestion at new roundabout.
- (iv) Increased traffic in Kiveton Lane and associated nuisance.
- (v) Longer journeys for emergency vehicles.
- (vi) Stone wall to be lost should be reclaimed.
- (vii) Minor amendments could avoid loss of mature Lime trees.
- (viii) Consideration should be given to temporary closing of right turn into Goosecarr Lane when there is excessive queuing on the A57.
- (ix) Loss of bus access to Goosecarr Lane.
- (x) Levels problems at new field entrances, and loss of field accesses.
- (xi) Danger from slow moving farm vehicles entering the road.
- (xii) Existing road should be straightened and speed cameras installed instead of the proposed scheme.
- (xiii) Traffic lights should be installed at the new roundabout.

Todwick Parish Council have no objections to the principle of the proposals but wish to see a right turning lane into Goosecarr Lane. The proposals would lead to an increase in traffic in Kiveton Lane.

The Campaign for the Protection of Rural England have written objecting to the principle of the development on the following grounds:

- (i) The need for the scheme is not established.
- (ii) Robust alternatives have not been investigated.
- (iii) It conflicts with national transport policies.
- (iv) It conflicts with Policies in the Unitary Development Plan.
- (v) It conflicts with PPS 1, 4 and 7, and PPG 2 and 13.
- (vi) It conflicts with Yorkshire and Humber Regional Plan.
- (vii) It requires an Environmental Impact Assessment.
- (viii) It requires a regeneration report.

Three requests to speak at the meeting have been received.

#### **Consultations**

**Transportation Unit:** 

No objections, the proposed scheme conforms with current transportation policy T2 Major Road Schemes and Highway Improvements of the Unitary Development Plan.

Highways Agency:

No objections.

Natural England:

No objections. Is satisfied with the information supplied by the consultants and does not see a need for any further surveys or mitigation. Natural England is satisfied that the scheme will not have a significant impact on the local bat population.

South Yorkshire Mining Advisory Service:

No adverse comments. Points out that the site is stable from deep mining aspect and will remain so in the future. Two faults cross the site which have caused damage to the M1 in the past but there is no evidence to show damage to the A57. If weak ground conditions are experienced, foundations should be strengthened accordingly. Gas safety precautions should be implemented.

South Yorkshire Passenger Transport:

No objections. Point out that the bus lay-byes indicated to the east of the M1 roundabout should be retained. The need for a bus turning facility in Todwick no longer applies, though there may be a possible future need for a turning circle if necessary in respect of future service changes (which would be examined separately). Concern was expressed at the no right turn into Goose Carr Lane as this opens the risk of potential loss of service. It is pointed out that these issues have been raised with the applicants and that they have been satisfactorily resolved.

National Grid:

Negligible risk to infrastructure.

**Environment Agency:** 

No objection subject to appropriate informatives.

Streetpride (Trees and Woodland Section):

Points out that the proposal will have some adverse effect on amenity, but raised no objections subject to appropriate conditions for the replacement of trees and hedgerows lost along with the implementation of an approved landscaping scheme.

Director of Housing and Neighbourhoods (Environmental Health):

The information submitted indicates that the proposals will lead to a slight increase in noise levels at "Leadhill Lodge" and "Orchard House", though in both instances the increase will be below the 3dB(A) threshold that is regarded as being the level of change which is audible to the human ear. "Leadhill Lodge" already has an existing façade noise level of 66 dB (A) so the increase may make the property eligible for statutory sound insulation measures. It is therefore recommended that appropriate conditions are attached for an assessment of any additional adverse effect along with any necessary mitigating measures required, along with informatives relating to working practices during the construction period.

The proposal is a reduced scheme from that already granted permission, and there are no other properties affected. Significant detail is provided in the Planning Statement. The area is not within an air quality management area and there are no known concerns to initiate such an area. Changes in pollution levels are predicted to be slight with predicted increases only in the area of two properties.

Yorkshire Water:

No objections, point out that an existing water main will need to be diverted at the applicant's expense.

South Yorkshire Archaeology Service:

Point out that there has been very little development and archaeological investigation in the area over the years and its continuing agricultural nature means that any archaeological deposits are likely to be relatively intact. It is therefore recommended that a condition for an archaeological investigation, watching brief and written scheme of works prior to commencement of the development be submitted and approved.

Streetpride (Footpaths Officer):

Points out that the area is popular with walkers, cyclists and horse riders, and that provision will need to be made for the closure or diversion of some sections of footpaths if the development goes ahead. It is also indicated that pedestrian provision at field accesses would provide good off road links between footpaths.

Culture and Leisure (Ecology Officer):

No objections subject to a condition requiring further work regarding additional assessment of some key impacts and appropriate mitigating measures to provide additional biodiversity gain.

#### **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The main issues relating to the proposals are:

- (i) The principle of the development. and the effect on the openness of the Green Belt.
- (ii) The effect on the landscape.
- (iii) The effect on the ecology.
- (iv) The effect on residential amenities in the area.
- (v) The effect on regeneration of the area.
- (vi) Representations from residents.
- (i) The principle of the development and the effect on the openness of the Green Belt.

The principle of the development:

Policy ENV1 Green Belts states that there is a presumption against the granting of planning permission for development in the Green Belt unless it is essential for the use of agriculture forestry or open recreation. PPG2 Green Belts states that inappropriate development in the Green Belt is harmful by definition and that permission will not be granted in such areas unless there are very special circumstances to clearly outweigh the harm by inappropriateness and any other harm. The proposed development does not fall within one of the accepted uses within the Green Belt and consequently it would constitute inappropriate development.

The existing road has a very poor safety record in recent years and is currently running at saturation levels during peak periods resulting in delay and queuing at junctions. Projected traffic figures indicate significant increases in volume, which will exacerbate the current unsatisfactory situation unless steps are taken to address this issue. Planning permission has previously been granted for a similar scheme in 2009 and the amendments currently proposed would not alter the general benefits associated with the development. Once again, the proposed improvements will reduce congestion and accidents in the highway and will improve strategic links to the local regional and national road network thereby better facilitating local and regional regeneration. It will also assist in meeting the Government's legal obligation to reduce greenhouse gas emissions, and help to secure better road links between South Yorkshire and the rest of the UK and beyond, in accordance with the Regional Strategy.

The effect on the openness of the Green Belt:

PPG2 Green Belts also states that the main attributes of green belts are their openness. It is considered that the proposal will have an impact on the openness of the Green belt at certain points, insofar as the section of the road to the east of the M1 junction will be elevated in relation to existing land levels to the north and the south, though this portion of the road is already elevated in relation to the land levels to the south. The great majority of the remainder of the scheme will be at the same levels as the adjacent land or in cuttings, and in this respect the impact will be the same. The land take attributable to the current scheme will be reduced from that approved in 2009 by the removal of the subway structure and approach ramps. Consequently the impact on the openness of the Green Belt is reduced by the current scheme, and in conjunction with the implementation of a structural landscaping scheme, any significant impact could be mitigated.

Having regard for the above it is considered that the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. The proposal therefore complies with Policy ENV 1 of the Unitary Development Plan and PPG 2 Green Belts.

#### (ii) The effect on the landscape:

Policies ENV 2.2 Interests Outside Statutorily Protected Sites and ENV 2.3 Maintaining the Character and Quality of the Environment seek to justify development and mitigate its effect on any interest outside statutorily protected sites, and any environmental interest.

The current scheme will have a lesser impact on the landscape than the previous scheme approved in 2009. The scheme will affect slightly the grounds of Todwick Grange, by cutting through a small triangular piece of land adjacent the existing highway. The proposal will also include the removal of a number of trees adjacent the highway in the B6463 Todwick Road and some sections of hedgerow. It is therefore considered that rebuilding of the

boundary wall at Todwick Grange along with a comprehensive, structural replacement landscaping scheme which incorporates indigenous species will reduce to an acceptable level the effect of the development on the environmental interests. With regard to the impact of the proposed road, the alignment is relatively direct and consequently seeks to reduce as far as possible the land take. Additionally the majority of the carriageway will be at existing levels or in relatively shallow cuttings, though a length of approximately 250m of the new road at the new Goose Carr Lane junction will be elevated in relation to the land levels to the north by some 1.6m at its highest point as in the previously approved scheme. The road will also be elevated, to a lesser degree, in relation to the land levels to the south of that junction.

The current amended proposals further reduce the land take and impact of the scheme over and above the previously approved scheme by the removal of the subway at the western end of the scheme.

It is therefore considered that the proposals will not be in conflict with policies ENV 2.2 Interest outside Statutorily Protected Sites, ENV 2.3 Maintaining the Character and Quality of the Environment and ENV 3.4 Trees and Woodlands of the Unitary Development Plan.

### (iii) The effect on the ecology:

With regard to the loss of trees and hedgerows and the effect on wildlife, the supporting environmental information indicates that any effect which is potentially adverse and significant (though localised to the immediate vicinity of the development) can be avoided, compensated or mitigated. No significant adverse impacts to nature conservation are anticipated to result from the proposed scheme. No nationally endangered species have been identified in the area and no bat roosts located. Outside that area there is abundant foraging areas for Bats, Brown Hare, and nesting birds, and consequently in conjunction with proposed mitigating measures it is considered that there will be no adverse impact on these species. Water Voles have not been detected in the area but in any event no works will encroach within the recommended margins for such habitats.

Additionally, ecological mitigation and enhancement measures are proposed and will be reinforced by recommended conditions.

The Authority has considered the relevant European legislation. Natural England have indicated they are satisfied that the scheme will not have a significant impact on the local bat population. It is therefore considered that there will be no conflict with the Conservation of Habitats and Species Regulations 2010, Policies ENV2.3 Maintaining the Character and Quality of the Environment ENV3.2 Minimising the Impact of the development and ENV3.4 Trees and Woodlands of the Unitary Development Plan, and advice in PPS9 Biodiversity and Geological Conservation.

### (iv) Effect on the residential amenities in the area:

The information submitted indicates that the proposals will result in a slight increase in noise levels at "Leadhill Lodge" and "Orchard House," though in both instances the increase will be below the 3dB(A) threshold that is regarded as being the level of change which is audible to the human ear. "Leadhill Lodge" already has an existing façade noise level of 66 dB (A) so the increase may make the property eligible for statutory sound insulation measures. Appropriate conditions are recommended for an assessment of any additional adverse effect along with any necessary mitigating measures required. With regard to pollution, there is a projected reduction in overall pollution levels, including a reduction in carbon emissions of 60,000 tonnes in the year of opening, and reduced light pollution. The scheme reduces the impact in terms of noise and air quality in comparison with the scheme previously approved in 2009. In view of the above, the scheme complies with Policy ENV3.7 Control of Pollution of the Unitary Development Plan and advice in PPG24 Planning and Noise.

Policy T2 Major Road Schemes and Highway Improvements, in the Unitary Development Plan and advice in PPG13 Transport seek to support strategic road schemes which reduce congestion, support regeneration, improve links to the national road networks system, and improve safety. The current scheme addresses all these aspirations, by improving traffic flows and journey time variability, including that for public transport, between the M1 Motorway and Todwick Crossroads. In addition it will reduce congestion and accidents, whilst improving links to the national road network, and assisting strategic regeneration in Dinnington and the surrounding area and the South Yorkshire Technology Corridor. It will also provide pedestrian/cycle routes either side of the carriageway and controlled crossing points near the Goosecarr Lane junction and the proposed roundabout at Todwick Crossroads.

Additionally in terms of traffic growth the number of vehicles using the highway has increased in line with National Growth Traffic forecasts 'high growth forecasts' at approximately 2% per year, whilst for local roads in the vicinity this figure is 0.5% compared with 1.7% for Rotherham as a whole. As indicated in the Proposals section above it is anticipated that implementation of the scheme will result in major improvements to traffic flows, and highway safety, and will assist in regeneration of the area.

It is therefore considered that the proposals will have a positive effect on the environment by a reduction in emissions and noise pollution and will thereby be in accordance with Policies, ENV 3.7 Control of Pollution and T2 Major Road Schemes and Highway Improvements of the Unitary Development Plan, advice in PPS 1 Delivering Sustainable Development, PPG 13 Transport, and would assist in meeting the government's legal obligations for reducing greenhouse gas emissions.

### (v) The effect on the Regeneration of the area:

The scheme is a key project in delivering continued regeneration of the Dinnington area and the South Yorkshire Technology Corridor, in terms of delivering strategic accessibility outcomes, particularly in terms of access to

and from jobs. The continuing regeneration of the former colliery site has been successful to the point where the A57 improvement scheme is needed to realise additional economic benefits and housing provision in locations close to new and successful employment developments.

### (vi) Representations from Residents:

Residents are particularly concerned about the inability of traffic to turn right at the Goosecarr Lane /Sheffield Road junction; the amount of additional traffic in Kiveton Lane; pedestrian crossing facilities; individual accesses to the dual carriageway; and slow moving farm vehicles. These issues were addressed under the previous permission and can be summarised as follows:

With regard to traffic in Kiveton Lane, it is anticipated that the effect of the redistributed traffic may result in additional traffic in Kiveton Lane of 80 vehicles per hour in the morning peak (i.e. just over 1 vehicle per minute) and 250 vehicles per hour in the evening peak (17:00 to 18:00 hrs) (i.e. 4 vehicles per minute). It should be appreciated that this will result in a corresponding reduction in traffic in Goosecarr Lane and The Pastures, affecting a similar number of residential properties. Additionally the evening traffic peak period, when the greatest amount of reassigned traffic occurs, does not coincide with school leaving time. Traffic forecasts and analysis show that Kiveton Lane can accommodate these increases.

With regard to pedestrian access the proposal will include 3m wide pedestrian/cycle lanes either side of the dual carriageway, a controlled pedestrian crossing to the east of the cluster of houses in the vicinity of Common Farm, and a controlled pedestrian crossing at the roundabout at Todwick Croosroads.

Regarding farm and individual accesses, Conduit House Farm and Orchard House accesses will be diverted to the existing Hardwick Lane access point. Todwick Grange access will have a left in left out access with acceleration and deceleration flares, and commensurate visibility. The existing access to Lead Hill Lodge will be closed and replaced by a new access 110m to the north of the new roundabout. The existing access to Burne Farm, which is direct to the A57 and beyond the proposed tie point to the existing road, will remain.

The Red Lion public house will have its own access direct to the new roundabout and Side Farm Nursery will retain its existing access direct to the A57. Residents at Common Farm, Aston will only be able to turn left when leaving the site and will not be able to turn right across the dual carriageway.

Whilst there may be some inconveniences to the new access arrangements for individual properties, these would be clearly outweighed by the general highway improvements of the scheme.

**Human Rights:** 

Generalised environmental concerns do not engage Article 8 of the European Convention on Human Rights which is concerned with an individual's right to enjoy life in his own home. Notwithstanding this the right under Article 8 or Article 1 of the First Protocol is not absolute and can be made to yield to the greater public good. Any interference under Article 8 would be justified on the basis that there is a legal authorisation for the interference (Town and Country Planning Act 1990), which pursues the legitimate aim of the economic well being of the country, (here by the significant benefits of the road improvement scheme in terms of highway safety, improved traffic flows, and improved access to the local regional and national road network, thereby better facilitating the regeneration of Dinnington and the area as a whole) and the protection of the rights of others (here the landowner/applicant ) set against any forms of pollution generated, i.e. noise, fumes and traffic generation and any potential impact on the amenities of residents in the locality, which are clearly outweighed by the benefits of the scheme. Any interference in the context of the foregoing it is submitted would be necessary and proportionate.

Article 1 of the First Protocol of the European Convention on Human Rights states:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The courts have held that diminution in value of property is outside the scope of Article 1 of the First Protocol as well as not being a material planning consideration.

Therefore, it is considered that there is no infringement of Article 8 and Article 1 of the First Protocol in this instance.

#### Conclusions

The application is for an amendment to an existing road improvement scheme which was granted permission in 2009 (RB2009/0260).

The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels.

The portion of the A57 referred to has significant current long standing problems in terms of its alignment and configuration, over capacity and accident record. These issues were addressed in the planning permissions granted in December 2004 (RB2003/1056) and 2009 (RB2009/0269), which the current application seeks to further improve. The proposals will also afford improved access to the national road network and better facilitate

regeneration in Dinnington and the South Yorkshire Technology Corridor. The proposals will have some adverse effect in relation to local amenity, in terms of vehicular access links for local residents, additional noise levels for a small number of properties, and impact on the visual appearance and openness of the Green Belt. It is however considered that these issues are clearly outweighed by the reduced impact of the new scheme and the significant benefits of the road improvement scheme as a whole in terms of highway safety, improved traffic flows, reduction in greenhouse gas emissions and improved access to the local regional and national road network, thereby better facilitating the regeneration of Dinnington and the area as a whole. The harm by reason of inappropriateness, and any other harm, is clearly

The harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (identified above), so as to amount to the very special circumstances necessary to justify the development.

In view of the above it is recommend that Members indicate that they are favourably disposed towards the proposal.

The development is inappropriate development in the Green Belt and the Town and Country Planning (Consultation) (England) Direction 2009 requires applications to be referred to the National Planning Casework Unit (formerly referred to as the Government Office) when the development would, by reason of its scale or nature or location, have a significant impact on the openness of the Green Belt. Whilst it is debateable whether the proposed development would have a 'significant' impact on openness, for the sake of consistency it is once again considered that the application should be referred to the National Planning Casework Unit.

ITEM 3 REF: RB2010/0971

Appeal against refusal of planning permission for formation of a vehicular access at 63 Potter Hill Greasbrough for Mr Rourke

Recommendation

That the decision to dismiss the appeal be noted.



### Background

Application RB2010/0971 was refused under delegated powers on 21 July 2010 for the following reason:

01

The Council considers that the proposed on site vehicular area is inadequate to accommodate a typical size family car in a convenient manner such that obstruction of the footway by a parked vehicle, or vehicle shunting movements in the footway to manoeuvre a vehicle fully onto the site, would occur to the detriment of pedestrian safety. As such the proposal would be contrary to Supplementary Planning Guidance (SPG) Housing Guidance 1: Making an access for a vehicle.

#### Main Issues

The Inspector considered the main issue in this appeal is the effect of the vehicular access on highway safety.

#### Reasons

The Inspector noted that the property is one of a pair of semi-detached houses in a line of other semidetached properties that runs up Potter Hill, the B6089. The house has a shallow front garden of around 3.7 metres depth, into which projects a set of steps leading to the front door and a bay window. The front garden is largely paved, but has a flowerbed related to the bay window and common boundary with No 65. A pedestrian link runs along the north-west side of the property connecting Potter Hill to a housing estate behind. This slopes down compared to the house level and has a boundary wall that also acts as part retaining wall to the garden of the house.

The Inspector stated "the front garden, excluding steps, would not be long enough for a family vehicle to be parked off the road without overhanging the footway of Potter Hill. To park the vehicle parallel to the road within the front garden without blocking the footway would require substantial manoeuvring over the footway. This would compromise the safety of pedestrians. This harm would be compounded by the junction of the pedestrian link with the Potter Hill footway at the north-west corner of the property."

The Inspector considered that the proposed access and use of the front garden for parking would harm the safety of pedestrians using footways near the property. This would be contrary to adopted Supplementary Planning Guidance: *Housing Guidance 1- Householder Development* [SPG] that indicates that any new access should be safe. This SPG supports saved Policy ENV3.1 of the Rotherham Unitary Development Plan 1999 that requires new development to be of an appropriate standard of design.

In addition the Inspector acknowledged that other properties on Potter Hill have accesses, however, stated that "all of these, bar No 77, have room within their curtilage to park a family vehicle clear of the highway without

excessive manoeuvring over the footway. No 77 has a very short drive between the footway and a garage, but parking within the garage would ensure the footway is not obstructed. Whilst not all of these have turning arrangements within the site, they do not present the same concerns as those related to this appeal and do not create a precedent."

Whilst the Inspector appreciated the personal needs of the appellant's daughter to have access as readily as possible to the property, he considered that such needs do not outweigh the concerns in relation to the harm that would arise to the safety of pedestrians.

The Inspector concluded that there are no other matters that outweigh his findings in respect of the harm that would arise to the safety of pedestrians using the local footways, therefore dismissed the appeal.

### ITEM 4

REF: RB2010/1371

Appeal against refusal of planning permission for a single storey front extension at 63 Gilberthorpe Street, Clifton for Mrs. Davis.

Recommendation

That the decision to allow the appeal be noted.



### Background

Application RB2010/1371 was refused under delegated powers on 14 October 2010 for the following reason:

01

The Council considers that by virtue of its design and position on the front elevation of this semi-detached house, the extension would significantly alter the main elevation of the host property and would be detrimental to the character and appearance of the dwelling introducing an incongruous feature in the streetscene and surrounding area. As such it would be contrary to Unitary Development Plan Policy ENV3.1 'Development and the Environment' and Supplementary Planning Guidance, Housing Guidance 1: Householder Development.

#### **Main Issues**

The Inspector considered the main issue in this appeal is the effect of the proposal on the character and appearance of the streetscene.

#### Reasons

The Inspector noted that the appeal property lies within a row of similar semidetached houses, each of these has a shallow but wide two storey front bay. The proposed extension would be single storey in height projecting forward of the wide bay by around 0.95 metres and from the rest of the front elevation by about 1.3 metres using matching materials and the pitched roof would reflect the shape and appearance of the main roof to the house.

The Inspector stated "I appreciate that the extension would be positioned under the first floor bay window. However, given its modest size and the design features outlined above, I am satisfied that it would be subservient to the existing house and so would not appear as an incongruous or unduly prominent feature. Accordingly, it would not cause any significant harm to the character and appearance of the house or the streetscene."

The Inspector found no conflict with Policy ENV3.1 of the Rotherham Unitary Development Plan which seeks to ensure that development makes a positive contribution to the environment and considered that the proposal also accords with the SPG insofar as it aims to foster improved standards of residential development and design and to ensure that care is taken in the design of front extensions.

The Inspector was able to see from a site visit that a similar front extension has been permitted and added to a semi-detached house on the opposite side of the road at 98 Gilberthorpe Street and considered that it does not stand out as an intrusive feature.

The Inspector concluded that for the reasons given above and having considered all other matters the appeal should allowed.

ITEM 5

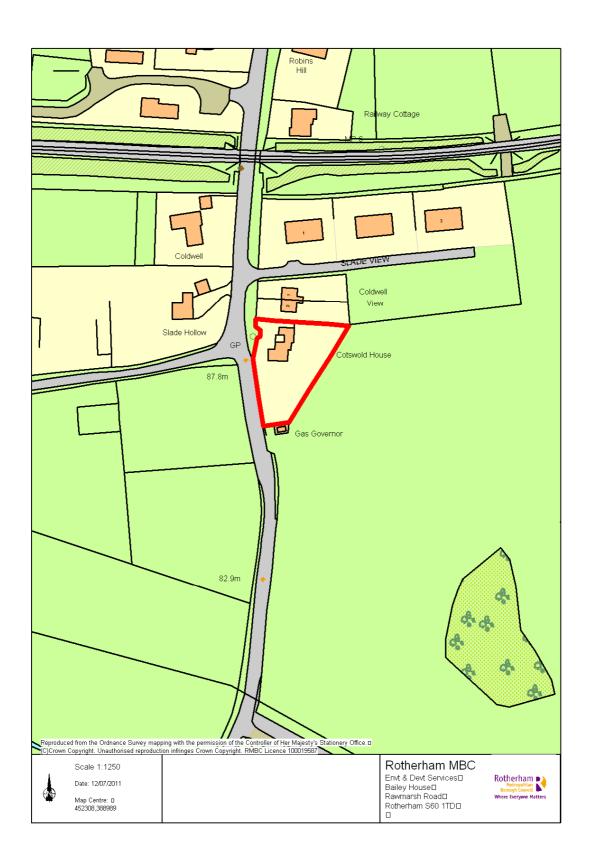
REF: RB2010/1655

# Appeal Decision - Dismissed

Demolition of existing attached garage and erection of single storey front, side & rear extension with rooms in roofspace to form granny flat and erection of detached garage at Cotswold house, Hooton Lane, Slade Hooton.

### Recommendation

That the decision to dismiss the appeal be noted.



### Background

The application site is a previous extended two storey dwellinghouse constructed in the 1960's. The dwelling is located on the edge of Slade Hooton and is the last property in the small village. Previous extensions were added in the 1970's.

An application was submitted for the demolition of existing attached garage and erection of single storey front, side & rear extension with rooms in roofspace to form granny flat and erection of detached garage in December 2010 and was subsequently refused under Delegated powers in February 2011. The reason for refusal was as follows:

"01

The cumulative additions of the proposed extensions and detached garage would result in disproportionate additions over and above the size of the original dwelling and therefore would constitute inappropriate development in the Green Belt which should only be allowed in very special circumstances which do not arise in this instance. The proposal is therefore contrary to Policies ENV1 and ENV1.3 of the Rotherham Unitary Development Plan as well as the guidance set out in SPG Environment Guidance 1 and Planning Policy Guidance Note 2: Green Belts."

An appeal against the refusal of planning permission was submitted and I have now been informed that the appeal is dismissed.

#### Main Issues

The Inspector considered the main issues in this appeal were whether:

- The extensions are inappropriate development in the Green Belt.
- Whether there would be any other harm to the Green Belt.
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The Inspector notes the Council have stated that the property has been extended in the past and the cumulative percentage increase in floor space of the previous extensions coupled with the appeal proposal would amount to a 71.4% increase. She notes that by any measure this is a significant increase and the resultant massing of the dwelling on the plot would be considerably larger, extending at a greater height across its width in place of the existing flat roofed buildings. The Inspector appreciates that the actual increase in floor space is small, but the parties agree that even excluding the garage, the resultant increase in floor space relative to the original property would be 48% which she considers to be disproportionate. She also considers that the floor space figures are somewhat conservative as they do not fully reflect the significant increase in volume and massing of the property. The proposal in conjunction with previous additions, could not be considered a minor addition to the original dwelling as set out in Policy ENV1.3 of the Rotherham Unitary

Development Plan nor a subsidiary addition to the original dwelling as envisaged by the SPG.

The proposed garage, whilst a visually recessive element, being set further back into the plot, would add to the built form at the site. The combination of additions to the property would, in the Inspector's view, significantly increase the scale and massing of the original dwelling and amount to a disproportionate addition to it. The proposal would thus amount to inappropriate development in the Green Belt. Paragraph 3.2 of PPG2 states that in view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm thereto when considering any planning application or appeal concerning such development.

Due to the notable increase in the mass of the dwelling, together with the introduction of the detached garage to the rear, the Inspector considers the proposal would also undermine the openness of the Green Belt at this point and this would add to the harm by reason of inappropriateness. This would be particularly noticeable as the property stands at the very edge of the village, close to the intersection of two roads.

The appellant questions why the garage should be included in the assessment given that a garage could be erected further away from the boundary under permitted development rights. The Inspector notes that PPG2 does not refer to garages and other incidental buildings in the curtilage. However, in this particular instance, as it would have a visually close relationship with the main house, the Inspector considers it can be regarded as a normal domestic adjunct and be treated as a part of the residential extensions to the property for the purposes of assessing it relative to Green Belt policy. The fact that permitted development rights exist to erect buildings in the curtilage does not alter this assessment.

The appellant points out that the extension would accommodate her son and daughter in law to provide a degree of care for her as she suffers from macular degeneration. Whilst the Inspector has some sympathy with that position, the impact of the extension on the Green Belt would remain long after the appellant's personal circumstances have ceased to be material. Although the appellant suggests the condition is likely to deteriorate in later life and may ultimately require 24 hours care, it is far from clear what current level of care, if any, is required. The Inspector therefore attaches limited weight to this factor.

She also takes the appellant's point that the house sits within a generous plot, but neither PPG2 nor local planning policies make an allowance for this, which is not unsurprising given that many dwellings within the Green Belt occupy large plots. The Inspector also appreciates that the proposal would replace the existing unsympathetic flat roofed extensions to the side of the property and she agrees that this benefit carries some weight.

The Inspector notes her attention has been drawn to an extension allowed at No. 2 Coldwell View and she was able to see what appeared to be a

substantial side extension to that property at the site visit. The appellant states that this amounted to a 50% increase in floor space over and above the original dwelling, which is less than the totality of building form proposed here. Moreover, that property does not stand at the periphery of the village in the way that the appeal property does. The application of the "on its merits" assessment under Section B of the SPG guidance also only applies where there is no impact on openness of the Green Belt, which does not apply here. The Inspector therefore does not consider that particular extension is comparable to the proposal in this appeal which must be considered on its own merits.

#### Conclusion

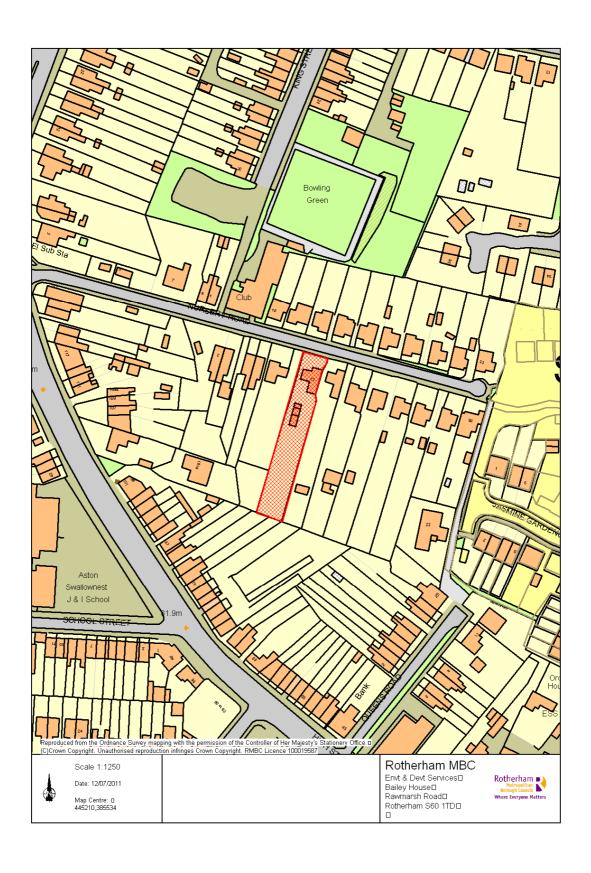
In Inspector concludes that the proposal amounts to inappropriate development in the Green Belt and she has also identified harm to its openness, matters which she attaches significant weight. Set against this identified harm are the other considerations raised by the appellant cited above. Overall however, even taken together, the Inspector does not consider that these clearly outweigh the totality of harm to the Green Belt. It follows that the very special circumstances necessary to justify the proposal do not exist. It would thus conflict with the advice at PPG2, Policies ENV1 and ENV1.3 of the UDP and the advice in the SPG. Accordingly she dismissed the appeal.

ITEM 6 Ref: EN2009/0314

Withdrawal of Enforcement Notice in relation to erection of raised wooden structure on land at 12 Nursery Road, Swallownest

#### Recommendation: -

That pursuant to Section 173A of the Town and Country Planning Act 1990, the Enforcement Notice, which required the removal of the unauthorised raised wooden structure in the rear garden area of 12 Nursery Road, Swallownest, be withdrawn as the requirements of the Notice have now complied with by removal of all the listed work.



### Background

A complaint was raised with the Enforcement Officer by a nearby resident in respect of the erection of an unauthorised raised wooden structure to the rear of 12 Nursery Road, Swallownest and the owner was informed that a planning application should be submitted. No application was submitted and an Enforcement Notice was served on the owners/occupiers of 12 Nursery Road, Swallownest, on 13<sup>th</sup> October 2010 requiring them to remove the unauthorised structure with a compliance date of 17<sup>th</sup> January 2011. No appeal was submitted.

A site visit on the 24<sup>th</sup> June 2011 confirmed that the structure has been removed in compliance with the Enforcement Notice. Therefore, the requirements of the Enforcement Notice have been fully complied with.

Section 173A of the Town and Country Planning Act 1990, allows the Local Planning Authority to vary or withdraw an enforcement notice. Section 173A states:

- "(1) The Local Planning Authority may-
  - (a) withdraw an enforcement notice issued by them; or
  - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173.
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The Local Planning Authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the Local Planning Authority to issue a further enforcement notice."

#### Conclusion

The requirements of the Enforcement Notice have been fully complied with as the structure has been removed and the land has been returned to garden area. As such, it is recommended that Members agree to the withdrawal of the Enforcement Notice.

If Members agree to the withdrawal of the Enforcement Notice then notice would be given to every person that the Notice was served on