

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

Thursday, 5 June 2014

Start Time 9.00 a.m.

At Town Hall, Moorgate Street, Rotherham. S60 2TH

AGENDA

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence
4. Declarations of Interest (Page 1)
(A form is attached and spares will be available at the meeting)
5. Minutes of the meeting of the Planning Regulatory Board held on 15th May, 2014 (herewith) (Pages 2 - 5)
6. Deferments/Site Visits (information attached) (Pages 6 - 7)
7. Development Proposals (report herewith) (Pages 8 - 88)
8. Report of the Director of Planning and Regeneration Service (herewith) (Pages 89 - 100)
9. Updates
10. Date of Next Meeting - Thursday 26th June 2014

ROTHERHAM METROPOLITAN BOROUGH COUNCIL
PLANNING REGULATORY BOARD
MEMBERS' DECLARATION OF INTEREST

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

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

1. Disclosable Pecuniary

2. Personal

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

(Please continue overleaf if necessary)

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

Signed:-

(When you have completed this form, please hand it to the Democratic Services Officer.)

PLANNING BOARD
15th May, 2014

Present:- Councillor Pickering (in the Chair); Councillors Astbury, Atkin, Dodson, Godfrey, Kaye, License, Middleton, Pitchley, Roddison, G. A. Russell, Sims, Smith and Whysall.

Apologies for absence were received from Councillor Tweed.

T104. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

T105. MINUTES OF THE MEETING OF THE PLANNING REGULATORY BOARD HELD ON 24TH APRIL, 2014

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday 24th April, 2014, be approved as a correct record for signature by the Chairman.

T106. DEFERMENTS/SITE VISITS

There were no site visits nor deferments recommended.

T107. DEVELOPMENT PROPOSALS

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

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

Change of use of ground floor to beauty salon (use class Sui Generis) at Botel Travel, 48A Morthen Road, Wickersley for Mr D Bridge (RB2014/0072)

Mr. D. Bridge (Applicant)
Mr. R. J. Toller (Objector)

Two storey and single storey rear extension and porch to front (amendment to RB2014/0223) at 8 Welham Drive Moorgate for Mr. M. Mazamil (RB2014/0377)

Mr. M. Mazamil (Applicant)
Mr. M. Taylor (Objector)
Councillor R. McNeely (Objector)

Two storey side and rear extension, formation of hipped roof to existing first floor side and rear extensions, including formation of rear dormer and erection of single storey front and rear extensions at 38 Sheep Cote Road Brecks for Mr S Yousaf (RB2014/0447)

Mr. S. Yousaf (Applicant)
Mrs. S. Waters, on behalf of others (Objector)
Ms. V. Pratt (Objector)
Mr. D. Ridgway (Objector)

(2) That applications RB2014/0072, RB2014/0361, RB2014/0377, RB2014/0392, RB2014/0408 and RB2014/0447 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

T108. PROPOSED TREE PRESERVATION ORDER NO. 1 (2014) - 1 GROVE BANK, MOORGATE GROVE, ROTHERHAM

Consideration was given to a report of the Director of Planning and Regeneration Service stating that an application for six weeks' notice of intent to fell a tree within the Moorgate Conservation Area was submitted in respect of this site at Grove Bank, Moorgate Grove, Rotherham on 11 December 2013. In considering the application, Planning officers concluded that the tree met the criteria for inclusion within a new preservation order and insufficient evidence had been provided to justify the loss of this mature Beech tree (*Fagus sylvatica*). Consequently, on 14th January 2014 a Tree Preservation Order was made in respect of this Beech tree. The Local Planning Authority has six months in which to confirm the Tree Preservation Order.

Resolved:- (1) That the report be received and its contents noted.

(2) That the serving of Tree Preservation Order No. 1 (2014) with regard to the mature Beech tree at No. 1 Grove Bank, Moorgate Grove, Rotherham be confirmed.

T109. APPLICATION TO MODIFY A SECTION 106 AGREEMENT IMPOSED BY PLANNING PERMISSION RB1999/0737 AT RETAIL WORLD, PARKGATE

Consideration was given to a report of the Director of Planning and Regeneration Service concerning an application to amend the Section 106 Agreement (Town and Country Planning Act 1990) in order to remove the restriction on the part of Unit 1, previously occupied by the Comet company at Retail World, Parkgate, for the sale of bulky goods only from these commercial premises. Members noted that this Unit has been vacant since the liquidation of the previous owner and subsequent closure of the Unit.

The report referred to the covenant which placed a restriction on the sales from Unit 1 to bulky goods only. The proposal is to remove this restriction to allow open A1 sales from the part of the Unit and to allow the new owner to occupy part of the premises.

Resolved:- (1) That the report be received and its contents noted.

(2) That the Section 106 Agreement be amended to remove the restriction on part of Unit 1, Retail World, Parkgate, for the sale of bulky goods only, as detailed in the report now submitted.

T110. APPEAL DECISION - REFUSAL OF PLANNING PERMISSION FOR THE CHANGE OF USE TO TAXI BOOKING OFFICE (USE CLASS SUI GENERIS) AT 54-56 RAWMARSH HILL, PARKGATE (RB2013/1116)

Further to Minute No. T64(4) of the meeting of the Planning Board held on 12th December, 2013, consideration was given to a report of the Director of Planning and Regeneration Service, stating that the appeal against the refusal of planning permission for the change of use to a taxi booking office (use class sui generis) at 54-56 Rawmarsh Hill, Parkgate, had been allowed.

The reasons for the Planning Inspector's decision on this appeal were explained in full in the report. The Inspector considered that the main issues in this case were the effect of the proposed use on the living conditions of nearby residents and its effect on the safety and convenience of users of the adjacent highway.

The Inspector had concluded that:-

(i) the use of the property as a taxi booking office does not adversely affect the living conditions of nearby residents and therefore accords with policy ENV3.7 of the Rotherham Unitary Development Plan (1999) which seeks to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport and paragraph 17 of the National Planning Policy Framework where one of the core planning principles requires a good standard of amenity for all existing and future occupants of land and buildings; and

(ii) the use of the property as a taxi booking office also accords with paragraph 35 of the National Planning Policy Framework, which requires minimal conflict between traffic and cyclists or pedestrians and does not adversely affect the safety and convenience of users of the adjacent highway.

The Planning Inspector allowed the appeal and granted permission for the development, subject to the following conditions:-

(1) There shall be no customer waiting area or facilities for taxi drivers within the building and no customers shall be picked up from the building;

(2) Visits to the premises by taxi drivers shall only take place between 0900 hours and 1700 hours on any day.

(3) This planning permission relates only to the first floor of the premises and to the staircase giving access to the first floor.

The Inspector considered conditions 1 and 2, as suggested by the Council, met the tests in paragraph 206 of the National Planning Policy Framework and the Government's Planning Practice Guidance. However, the Inspector considered that the Council's suggested condition restricting the parking of taxis on Rawmarsh Hill is not enforceable as the highway is outside the appellant's control. The Inspector imposed condition 3 for the avoidance of doubt, as it restricts the use to the operational floorspace of the premises and limits the possibility of disturbance to neighbours which may arise from any expansion of the business.

Resolved:- That the report be received and the reasons why the Planning Inspector has decided to allow this appeal be noted.

T111. UPDATES

The following update information was provided:-

(1) Appeal Hearing - Further to Minute No. T52(6) of the meeting of the Planning Board held on 31st October, 2013, concerning the refusal of the application for planning permission for the erection of 9 No. detached dwellings with associated garages at land off Grange Farm Drive, Aston for W. Redmile and Sons Ltd. (RB2013/0696), it was agreed that Councillors Kaye and Smith attend any public inquiry and/or hearing which may be arranged to hear the appeal against the refusal of this application, in order to provide information about the reasons for the Planning Board's decision.

(2) Appeal Decision – Further to Minute No. T57(8) of the meeting of the Planning Board held on 21st November, 2013, Members noted that the appeal against the refusal of the application for planning permission for the erection of a single storey extension and 3 No. dwellings at the Black Lion, 9 New Road, Firbeck for Mr. P. Rogers (RB2013/1379) had been dismissed. A report about this appeal decision would be submitted to the next meeting of the Planning Board.

(3) Completed Developments Tour – Further to Minute No. T103(b) of the meeting of the Planning Board held on 24th April, 2014, Members of the Planning Board were encouraged to suggest appropriate sites to be inspected during the Board's completed developments tour. It was noted that it may be necessary to alter the suggested date of this tour (Wednesday, 6th August, 2014) to an alternative date (probably Thursday, 21st August, 2014), because of Members' availability.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL
PLANNING REGULATORY BOARD

DEFERMENTS

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

SITE VISITS

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

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
05 JUNE 2014**

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

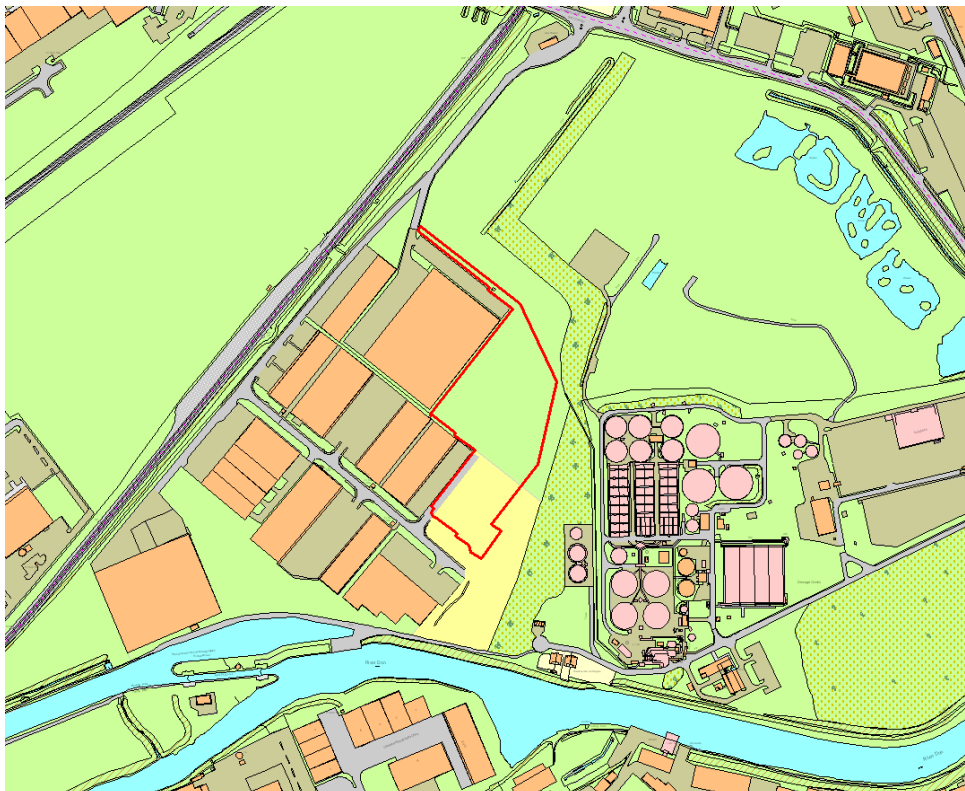
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<p>RB2014/0294 Demolition of existing dwelling & erection of 5 No. dwellings (including 1 No. bungalow) at 38 Goose Lane Wickersley for Ariane Developments Ltd</p>	<p>Page 19</p>
<p>RB2014/0318 Demolition of existing units and construction of new food store with car parking, landscaping & associated works at land at Muglet Lane/ Hamilton Road Maltby for Aldi Stores Ltd</p>	<p>Page 32</p>
<p>RB2014/0319 Outline application for demolition of existing depot and erection of residential development with access unreserved at former council depot site Hamilton Road Maltby for Quora Ltd</p>	<p>Page 65</p>

REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 05 JUNE 2014

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

Application Number	RB2013/1488
Proposal and Location	Erection of 2 No. industrial buildings for use within classes B1(b), B1(c), B2 and B8 at land at Waddington Way, Aldwarke for EV Waddington Ltd.
Recommendation	Grant subject to conditions



Site Description & Location

The application site consists of a vacant plot to the south of the existing industrial estate on Waddington Way. The land surrounding the application site comprises of large scale modern industrial warehouse buildings. The River Don/Sheffield and South Yorkshire Navigation Canal lies directly to the south of the site and a waste water treatment facility lies to the east. The main Rotherham railway line lies to the west. The site is accessed via Waddington Way, a road which serves the surrounding modern industrial development and starts at Aldwarke Lane.

The site covers approximately 2.5ha.

Background

RB2006/2264 - Outline application for warehouse/industrial development for use within use classes B1 (b) research, B1(c) light industry B2 general industry, B2 general industrial and B8 storage and distribution including details of the access – Granted Conditionally.

This application has now expired and it is therefore necessary to submit a full detailed application.

There has been a number of reserved matters/detailed planning permission subsequent to the above outline planning permission and the majority of the plots surrounding the application site have now been developed and buildings occupied.

Environmental Impact Assessment

The proposed development falls within the description contained at paragraph 10a of Schedule 2 to the 2011 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion 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 it is considered that the development is not EIA development as defined in the 2011 Regulations.

Proposal

This is a full planning application for the erection of 2 buildings for use within Use Classes B1(b) (research), B1(c) (light industry), B2 (General Industry) and B8 (Storage and Distribution).

The proposed buildings have a total footprint of approximately 10,500 square metres the dimensions of the buildings are set out below:

- Building 16: 91 metres x 84 metres and 8 metres to eaves;
- Building 17: 91 metres x 44 metres and 8 metres to eaves.

The proposed buildings are indicated to be steel portal framed buildings with profiled steel cladding in blue/grey to match the existing buildings on the industrial estate. Both buildings have multiple duo pitched roofs.

Both of the proposed buildings are designed to allow their subdivision into 4 smaller units (a total of 8 units) should this be required.

Both of the buildings have service yard/car parks accessed off the existing site road with supplementary car parking provided in areas to the rear of Building 17 and the side of Building 16. A total of 150 car parking spaces are proposed to be provided.

Landscaping is indicated around the perimeter of both buildings and service yards, there is also a large area of landscaping proposed between the buildings and the north east/south east boundaries.

In addition a footpath link is proposed to be provided between the site and the existing footpath along the western boundary and similarly to an existing path on the northern boundary adjoining Waddington Way.

The following documents have been submitted in support of the planning application:

- Design and Access Statement;
- Flood Risk Assessment;
- Phase 1 Site Investigation Report;
- Transport Statement.

Development Plan Allocation and Policy

The site is allocated for Industrial and Business Use in the Unitary Development Plan. The following policies are relevant in the determination of this application:

ENV3.1 'Development and the Environment'

ENV3.2 'Minimising the Impact of Development'

EC3.1 'Land Identified for Industrial and Business Use'

Other Material Considerations

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

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

Publicity

The application has been advertised by way of a site notice, press notice and individual letters to neighbouring properties. No comments have been received.

Consultations

Environment Agency – No objections;

SYMAS – no comments;

Yorkshire Water – has no objections subject to conditions;

Housing and Neighbourhood Services (Contaminated Land Officer) – no objections subject to conditions regarding ground gas monitoring to be undertaken and this is addressed by way of an informative;

Streetpride (Transportation Unit) – has no objections subject to conditions relating to provision of parking area details, footpath and site lines;

Streetpride (Landscape Team) – has no objections subject to conditions;

Police Architectural Liaison Officer – provides advice in order to minimise the opportunities for crime against the property;

Appraisal

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

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

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

The main considerations in the determination of the application are:

Principle
Design, Scale and Appearance
Highway Safety
Flood Risk Issues

Principle

The application site was subject of an outline planning application for a wider area to develop a new industrial estate. This outline planning permission has now expired and this application is therefore a full planning application.

Notwithstanding that, it is considered that the principle of the industrial/warehousing development on this site remains established. The site is allocated for industrial and business use in the Unitary Development Plan and the remainder of the industrial estate has now been, or is in the process of being finalised. This is the last remaining vacant plot without the benefit of detailed permission for development. The proposals are for development exclusively within the B Use Classes (B1, B2 and B8) and are considered to accord with the provisions of UDP Policy EC3.1 In addition the NPPF now states at paragraph 19: "The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."

Design and Layout of the proposal

UDP Policy ENV3.1 'Development and the Environment requires development to make a positive contribution to the environment by achieving an acceptable standard of design. In addition, paragraph 56 of the NPPF states that: "Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

The proposed development consists of large scale industrial type buildings located on a new industrial estate within the Aldwarke area. The site is relatively elevated and is visible from surrounding areas including the area beyond the River Don. It will however

be seen in the context of the other industrial buildings on the estate and it is considered that it should therefore be consistent with the design and quality of those existing buildings.

It is considered that the proposed development is of an appropriate scale for the site and sufficient space is retained for parking, service yards and landscaping in terms of the appearance of the site. The scale and height of the proposed buildings are consistent with those on the adjacent plots and whilst they have the appearance of typical large scale industrial warehouse buildings the use of high quality materials will assist in allowing the buildings to sit in an acceptable manner on this site. The proposed materials of profiled steel cladding will provide a modern and contemporary finish and the design and access statement indicates that the colours and finishing will be consistent with the existing buildings on the wider site.

There is a significant area of landscaping proposed around the perimeter of the buildings and also on the north east/south east boundaries. This landscaping is consistent with the Master plan which was approved at outline stage and with the detailed design of the landscaped areas of the existing, adjacent buildings. The landscaping will assist in softening the appearance of the buildings both in terms of views of the development from outside the site but will also create a high quality environment within the development.

Overall it is considered that the proposed development is of a high quality and is of an appropriate scale and design which will comply with the above mentioned policies.

Highway Safety

The access and parking layout are of an acceptable standard of design in terms of vehicular movements and highway safety. In terms of parking, the proposed layout indicates that 150 parking spaces are to be provided. This is in accordance with the Council's maximum standards and is therefore considered to be appropriate.

The application site is considered to be within a sustainable location and a footpath link is proposed to provide a more direct route for employees to Aldwarke Lane (where access to a range of modes of transport is located). In addition sufficient cycle parking is proposed within the site.

Flood Risk Issues

A Flood Risk Assessment has been submitted in support of the planning application which identifies that the application site lies within Flood Zone 2 (Moderate Risk). Table 2 of the Technical Guidance to the NPPF provides details of vulnerability classifications for particular types of development in relation to flood risk zones. Industrial use is classed as "Less Vulnerable" and

Table 3 indicates that "Less Vulnerable" development is compatible with Flood Zones 1, 2 and Zone 3a, and incompatible with Zone 3b. The use is therefore considered to be appropriate for the site. The site also lies in an area designated at risk of flooding from the River Don.

The site was partially flooded during the June 2007 event and the flood level is assessed to have been 23.70 m AOD. It has been recommended that buildings should be set at a minimum of this level and the submitted plans indicate that the finished floor

levels of the building are at 24.05 m AOD, thus, flood risk is not considered to be significant.

In addition, the site is within the 1 in 100 year climate change flood plain and this must be compensated for within the site. The submitted plans indicate that there is compensatory storage to the east of the proposed buildings and the detailed design of this storage will be dealt with by condition.

Rainwater from the development will drain into an existing flow balancing pond with flow control device, designed to accommodate this area of the overall site before discharging to the River Don.

Overall, it is considered that the development of this site for the purposes detailed above are acceptable in flood risk terms, subject to a number of conditions detailed below.

Conclusion

The proposed development is considered to be acceptable in principle, providing new Industrial and Business Development on a site allocated for that purpose in the Unitary Development Plan and previously being subject to an outline planning application for a similar development (albeit now expired). The development is considered to be of an appropriate scale and design and complies with UDP Policy ENV3.1 and the NPPF. Furthermore the site is in a sustainable location with access to a range of modes of transport and therefore accords with the provisions set out in the NPPF.

Conditions

01

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

Reason

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

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) (Drawing numbers 36026/014 Rev A, 013 Rev A, 016 Rev C, 012 Rev G, 015 Rev C, 017 Rev B and ALD 19 Rev B)(received 6 November 2013, 14 February 2014, 26 March 2014 and 10 April 2014)

Reason

To define the permission and for the avoidance of doubt.

03

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 5.0 (five) metres either side of the centre line of the sewers, which cross the site.

Reason

In order to allow sufficient access for maintenance and repair work at all times.

04

Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason

To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal

05

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

Reason

In the interest of satisfactory and sustainable drainage

06

Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason

In the interest of satisfactory drainage.

07

Any liquid storage tanks should be located within a bund with a capacity of not less than 110% of the largest tank or largest combined volume of connected tanks.

Reason

To ensure that there are no discharges to the public sewerage system which may injure the sewer, interfere with free flow or prejudicially affect the treatment and disposal of its contents

08

Landscaping of the site as shown on the approved plan (drawing no. ALD19 Rev B) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

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

09

No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

10

The proposed footpath / cycleway linking the site and the canal towpath shall be a minimum 2.5 metres in width and shall be made available at all times.

Reason

In the interest of pedestrian safety.

11

Notwithstanding the submitted plans, the development shall not be first brought into use until there has been submitted to and approved in writing by the Local Planning Authority, a plan indicating vehicular parking and turning heads. The layout shall be constructed in accordance with the approved details and completed before the development is first brought into use and thereafter maintained for car parking. This layout shall accord with the Council's maximum car parking standards.

Reason

In the interest of highway safety.

12

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.

Reason

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.

13

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

Reason

To ensure the provision of satisfactory garage/parking space and avoid the necessity for

the parking of vehicles on the highway in the interests of road safety.

14

Before the proposed development is brought into use, a 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. The Local Planning Authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan following submission of progress performance reports as time tabled in the monitoring programme. For further information please contact the Transportation Unit (01709) 822186.

Reason

In order to promote sustainable transport choices.

15

Prior to the commencement of development, details of cycle parking facilities shall be submitted to and approved by the Local Planning Authority in writing.

Reason

In order to promote sustainable transport choices.

16

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) April 2014, reference GMS/MW/36026 Revision B by Eastwood & Partners and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the development so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This is to be achieved by draining to the existing pond on site.
2. Provision of compensatory flood storage as detailed on drawing no. 36026/010 Revision C.
3. Flood resilience measures are incorporated into the development as detailed on page 6 of the FRA.
4. Finished floor levels are set no lower than 24.05m above Ordnance Datum (AOD) for building no.16 and 24.60m AOD for building no.17.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To prevent (a) flooding by ensuring the satisfactory storage of/disposal of surface water from the site, (b) flooding elsewhere by ensuring that compensatory storage of flood water is provided (c) to reduce the impact of flooding to the proposed development and future occupants and (d) to reduce the risk of flooding to the proposed development and future occupants.

17

Surface water draining from areas of hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, soakaway or surface water sewer. The interceptor(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the interceptor(s).

Reason

To reduce the risk of pollution to the water environment.

18

All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the occupation of the development. The sealed construction shall thereafter be retained throughout the lifetime of the development.

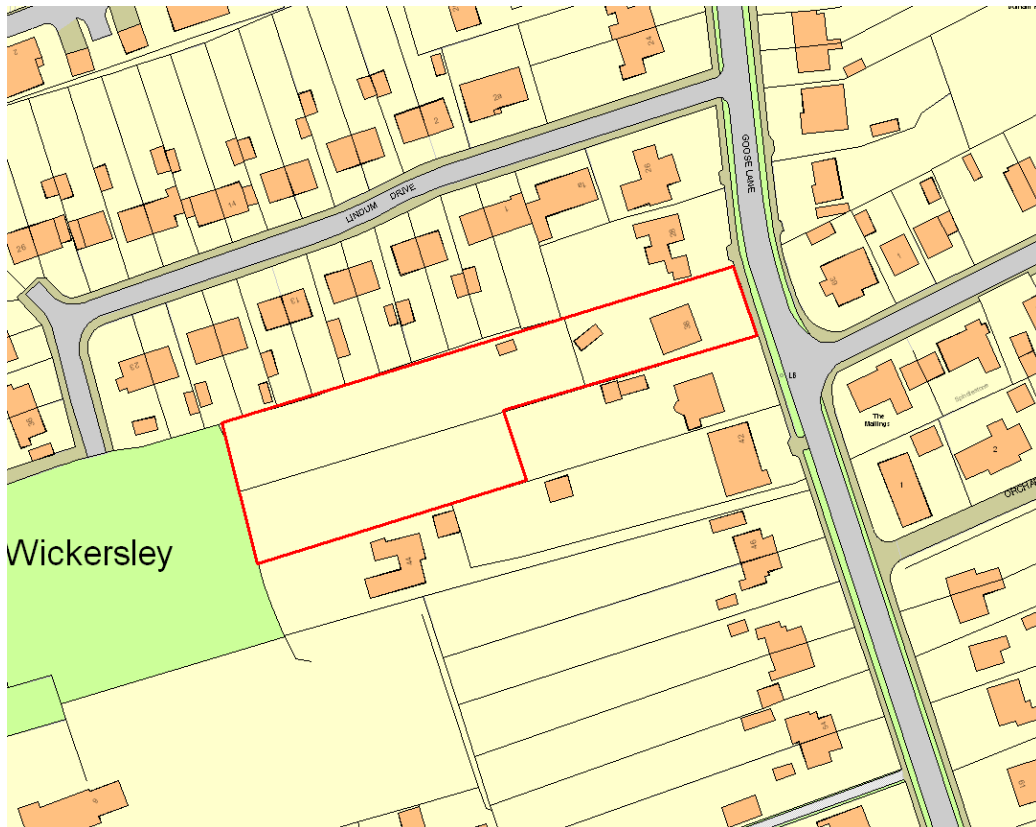
Reason

To prevent the contamination of clean surface water run-off.

POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.

Application Number	RB2014/0294
Proposal and Location	Demolition of existing dwelling & erection of 5 No. dwellings (including 1 No. bungalow) at 38 Goose Lane, Wickersley
Recommendation	Grant subject to conditions



Site Description & Location

The site to which this application relates comprises the rear gardens of No. 38 and 40 Goose Lane Wickersley, and relates to some 0.37 hectares in area. Both properties have substantial rear gardens approximately 110m long and are abutted by semi detached properties on Lindum Drive to the north and an existing backland development No.44 Goose Lane to the south. To the west is open land which is currently open land (fields), but has recently received outline planning permission for residential development.

In 2012 following the previous planning approvals two trees to the western boundary were protected by way of a Tree Preservation Order (TPO No.5 2012).

Background

RH1961/3354 – Bungalow - In garden to rear of 38 – GRANTED.

RB1975/1515 - Outline application for erection of bungalow (amended siting) at land to the rear of 42 Goose Lane - GRANTED CONDITIONALLY.

RB1998/0282 - Outline application for the erection of a dwellinghouse on land at the rear of No.38 – REFUSED for the following reasons:

01

The access to the site, being shared with the existing dwelling at No. 38 Goose Lane and a maximum of 3.05 m in width, is inadequate to cater for two-way traffic as required by the Housing Guidance for back land and tandem development in the Deposit UDP. The development would, therefore, lead to a conflict between traffic to and from the two properties served by the access and to vehicular/pedestrian conflict at the site entrance to the detriment of road safety.

02

The access as shown on the submitted plan is of insufficient width to cater for the convenient access for a fire appliance in an emergency situation.

03

In the absence of satisfactory vehicular access arrangements, the development does not meet the criteria for back land and tandem development in the Deposit UDP, and the Council considers that the site should be developed as part of a comprehensive scheme rather than in isolation. A piecemeal scheme such as that proposed is undesirable and likely to result in reduced amenities for both prospective occupiers and existing residential occupiers.

RB2007/0434 - Erection of 5no. dormer bungalows – WITHDRAWN.

RB2007/2112 - Erection of 2no. detached dormer bungalows - GRANTED CONDITIONALLY.

RB2010/0498 - Erection of 2 No. detached dormer bungalows (renewal of previously approved under RB2007/2112) - GRANTED CONDITIONALLY.

RB2013/0544 - Erection of 3 No. dormer bungalows - GRANTED CONDITIONALLY

Proposal

The current application relates to the demolition of the existing dwelling at 38 & erection of 5 No. dwellings. The applicant's Design & Access Statement states that:

- The proposed (4 no.) two storey dwellings have been designed to reflect the form and scale of traditional properties in the area whilst picking up on key vernacular design and construction features. The proposal is modest in its size and the proposed materials have been selected to reflect those of surrounding dwellings.
- The application is for five new dwellings which we believe will fit into the existing use pattern in this area of the village. The dwellings to be erected on the site are to be designed to meet the "Lifetime Homes" criteria and will in particular incorporate a lift space from the ground to the first floor for the future use of the occupants.
- One of the proposed dwellings is to be constructed fronting on to Goose Lane and will replace the existing dwelling at no. 38. The remaining three houses and bungalow will be constructed within a private vehicle court taking access from Goose Lane. Each property is to be provided with a vehicular access onto the private court whilst still allowing for an adequately sized private rear garden. The

design, layout and orientation of the proposed dwellings ensure that no detrimental overlooking or overbearing effects would occur on the adjoining properties.

- The proposed two storey dwellings are commensurate in scale with the surrounding residential development and we believe that the proposed form is in keeping with the area generally.
- The design of the dwellings seeks to create buildings of high aesthetic quality through the careful and considered approach to proportion, materials, form and scale and the design respects that of older traditional properties within the area.
- A number of mature trees are to be retained on the site and new landscaping will be provided to soften the appearance of the development. Hedgerows are proposed, most notably on the private vehicular court frontage, and a combination of new brickwork/infill fencing boundary treatments is to be incorporated to distinguish between the public and private areas of the site. 1.8m high concrete post and timber panel fencing is to be erected around the site to give a degree of privacy to adjoining properties. And 1m high timber fencing will be used to differentiate between adjacent properties.

The existing bungalow on the site is known to contain a bat roost and the applicant has submitted a bat survey which states that:

The bungalow is confirmed as a small infrequently used satellite bat roost to the nearby Wickersley wood. To legally facilitate demolition a European Protected Species mitigation licence will need to be obtained from Natural England prior to commencement of the works. As the roost that would be lost as a result of the development proposals is not a maternity roost and supports one common species (common pipistrelle i), in very low numbers, the conservation significance of the roost is considered to be low, in accordance with the Bat Mitigation Guidelines (English Nature, 2004). Proportionate mitigation for the loss of this roost is therefore likely to be achievable through the provision of suitable compensatory bat boxes (on nearby mature trees and within the proposed new dwellings).

Development Plan Allocation and Policy

The site is allocated for residential purposes in the Unitary Development Plan. The following policies and guidance are considered to be relevant to the determination of this application:

HG4.3 'Windfall Sites.'

HG4.4 'Backland and Tandem Development.'

HG5 'The Residential Environment.'

ENV3.1 'Development and the Environment.'

ENV3.4 'Trees & Woodlands.'

ENV2 Conserving the Environment

Other Material Considerations

National Planning Policy Guidance (March 2014)

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of

the Planning Policy Statements (PPSs) that existed. It states that “Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

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

Publicity

The application was advertised on site and via a site notice. Six letters of objection have been received as well as one from Wickersley Parish Council. The objectors state that:

- Plot 1a is too close to the adjacent properties on Lindum Drive.
- The original application by the original builders for 4 dwellings to be built was rejected and planning permission given for only 2 new houses. If the Council originally rejected the application for 4 dwellings, what has changed and what supporting evidence is there for 5 new houses to be built?
- We live at 15 Lindum Drive and when we bought our house we had a completely clear and private view on our back garden which we spend a lot of time in. This proposed development will completely block off all views from our garden and we will be overlooked directly also, our privacy will be invaded from the windows in the house close to our boundary.
- We think that the position of the houses is extremely unfair to us and our neighbours in No. 13. In our opinion the development should be reduced as it was done the previous time in 2013 and the properties spaced out to give all the residents on Lindum Drive equal distance from the houses.
- I found it strange that clearance of the land had started while I had received no notice of a planning application neighbour consultation.
- You have shown (on the map) the correlation between my property at 42 and no. 44 incorrectly (again) and hence the boundaries between the two properties seem to be out of kilter to reality. Before the full impact of the new development can be determined I would appreciate if the boundary line is corrected and the out-buildings shown in the correct place in relation to the plots so I may be able to judge if the proposed development will have any impact on my property.
- Possible devaluation of existing properties on Lindum Drive and Goose Lane that are adjacent to the proposed detached houses.
- The ecological report states that bat field sign evidence was observed and has rightly recommended further survey work. These surveys can not be conditioned and should form part of the application, as they should be a material consideration of the planning process.

Wickersley Parish Council objects on the grounds that the proposal represents an overdevelopment of the site.

Consultations

Streetpride (Transportation & Highway Unit): No objection subject to appropriate sight lines, driveways drained sustainably and sustainable travel plans.

Streetpride (Trees & Woodlands): No objections subject to conditions requiring protective fencing around TPO trees, retention of hedgerows and landscaping conditions.

Streetpride (Ecology): The ecological survey work undertaken is adequate. The proposed development will result in the loss of a bat roost. Mitigation measures have been proposed and are considered to be appropriate. Suggested conditions have been provided. A European Protected Species License will be needed to undertake the proposed development.

Appraisal

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

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

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

The site is allocated for residential purposes in the Unitary Development Plan and the site has previously been approved for residential development (RB2013/0544) and it is considered to be of a material consideration. The site represents a windfall site as defined under Policy HG4.3 'Windfall Sites,' of the UDP and furthermore accords with the advice in the NPPF which notes at paragraph 49 that: "Housing applications should be considered in the context of the presumption in favour of sustainable development."

Taking account of the above, there are no objections to the principle of the development. The main issues to be considered in the assessment of this application are:-

- The layout and design of the proposed housing.
- Impact upon neighbouring amenity.
- Impact upon trees and hedges.
- Highway safety and parking issues.
- Ecology

The layout and design of the proposed housing:

In respect to overall layout, UDP Policy HG4.4 'Backland and Tandem Development' is relevant and states: "The Council will resist the development of dwellings in tandem

except in cases of low density where further development would not be detrimental to the amenities and character of the area. In these exceptional circumstances, the Council will impose criteria relating to building height, space around the building, privacy, safety and vehicular access.”

Supplementary Planning Guidance (SPG) Housing Guidance 2: ‘Back land and tandem development’ states: “Homes with large back gardens are a common feature in many urban, suburban and village areas. Sometimes it may be acceptable to develop back gardens for new housing which is in keeping with the character and quality of the local environment. Where development of back garden or back land is allowed, it will require careful planning. For example, there must be proper means of access, which is convenient and safe for both drivers and pedestrians, and adequate provision for car parking. There must be adequate space between old and new buildings to avoid spoiling the amenity of neighbouring houses, for example, by over-shadowing. Sensitive design and good landscaping are particularly important if new buildings are to be fitted successfully into small vacant sites in established residential areas.”

The SPG further notes that: “The Council considers that the amalgamation of plots to form sites large enough to provide two or more dwellings served by a separate adoptable road or a shared private drive is generally the most appropriate means of developing back land. Such a solution provides for the efficient use of land and an acceptable standard of amenity for residents, both existing and new. This will therefore remain the Council’s normal approach to the development of residential back land.”

HG5 ‘The Residential Environment,’ notes that: “The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone.”

Although the previous approved scheme related to 3 new dwellings at the rear of the existing one, it is considered that the revised scheme with the 4 no. dwellings and one replacement dwelling accessed via the proposed new access is in accordance with the UDP Policy HG4.4 ‘Backland and Tandem Development,’ and the associated SPG in that it is a historic amalgamation of plots to form 2 or more dwellings served by a separate shared private drive. It is further considered to accord with UDP Policy HG5 ‘The Residential Environment.’

In respect of design considerations, UDP Policy ENV3.1 ‘Development and the Environment,’ advises that: “Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property.”

The NPPF further notes at paragraph 56 that: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The application proposes three two storey dwellings to the rear as opposed to the previously approved dormer bungalows. Since the original approval a comprehensive scheme of two storey dwellings has been approved on the land to the rear (RB2012/0607). With this in mind two storey dwellings in this backland location will not appear out of place. In addition the fourth dwelling will be a single storey bungalow which will have minimal visual impact.

Turning to the replacement dwelling, Goose Lane is made up of a variety of dwelling types, of different sizes and architectural styles, including the adjacent dwelling to the north which is two storey. As such, the new two storey gabled roof dwelling will not appear out of place.

Finally the proposed dwellings are all substantial in size containing good size bedrooms and sizeable rear gardens. As such the dwellings will provide a high standard of residential accommodation that exceeds the minimum standard set within the South Yorkshire Residential Design Guide and are not considered to represent an overdevelopment of the site.

Impact upon neighbouring amenity:

Supplementary Planning Guidance (SPG) Housing Guidance 2: 'Back land and tandem development' states that: "This guidance confirms the Council's general view of tandem development and indicates the circumstances in which such development will be considered acceptable, by reference to desirable spacing standards. The Council emphasises that such standards are stricter than the conventional standards used in housing estate development, in order to accommodate the extensions and outbuildings which may be built as "permitted development" without seriously eroding the amenities of adjacent dwellings."

The NPPF states that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. Amongst these 12 principles, it states that planning should: "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and building."

The proposed dwellings will primarily impact upon 13 & 15 Lindum Drive and 44 Goose Lane. In terms of 13 & 15 Lindum Drive the new side gable of the nearest proposed dwelling (on Plot 1a) will be positioned 1m off the boundary and therefore will be some 20m set off the neighbour's rear elevation. As such the set off distance exceeds the Council's 12m minimum distance usually recommended as part of the adopted SPG. With regard to 44 Goose Lane (the existing backland bungalow) the new dwellings will be set side on to the neighbour's gable with no habitable room windows overlooking. As such the impact upon No.44 is considered acceptable.

Turning to the replacement dwelling on Goose Lane, this is in line with other dwellings to the streetscene and contains no habitable windows in the side elevation. Furthermore its new two storey massing will not cause harm to the amenity of the adjoining dwellings.

Impact upon trees and hedges:

Policy ENV 3.4 Trees and Woodlands states that the Council will seek to promote and enhance, tree hedgerow and woodland coverage throughout the Borough.

The NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

In this instance the applicant has submitted a tree report which indicates that the majority of the vegetation is low grade self set trees that do not warrant protection, however a number of trees to the periphery are of a higher standard which have the potential to be retained. In addition replacement planting is recommended to the front garden of the replacement dwelling to compensate for the loss of two trees.

With regard to the two trees protected by TPO No.12 2012 on the rear boundary of the site, these trees were protected recently following the approval of a housing development on that site. The proposed new dwellings are set some 20m away from these trees and the new rear gardens can adequately accommodate the trees without harm occurring. In addition a condition has been attached requiring protective fencing during the construction phase to prevent any accidental damage occurring.

The proposed highway access:

The site will be accessed via a 4.5m wide access road between the new dwelling built on the site of 38 Goose Lane and No. 36 Goose Lane. Whilst the access will have some impact upon the occupants of No. 38, it is considered that the amount of vehicular movements will be minimal and would have little impact upon the amenity of No. 38. The access is designed to cater for a fire engine and the proposed new dwellings will have sufficient parking provision in accordance with the Council's adopted Car Parking Standards (June 2011).

Bat Survey

The NPPF at paragraph 109 states that: 'The planning system should contribute to and enhance the natural and local environment by..... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

UDP Policy ENV2 Conserving the Environment states that: 'In considering any development, the Council will ensure that the effects on the wildlife..... The Council will only permit development where it can be shown that':

- (i) development will not adversely affect any key environmental resources,
- (ii) development will not harm the character or quality of the wider environment, and
- (iii) where development will cause environmental losses, these are reduced to a minimum and outweighed by other enhancements in compensation for the loss."

The initial bat report submitted by the applicant found features within the existing bungalow (to be demolished) that could be used by bat species and found evidence of

low level use of the existing structure by bat species. The initial report recommended that additional bat species activity survey work be undertaken to confirm presence. The additional survey work has established that the existing structure is used infrequently as a small satellite roost (linked to known roosting at the nearby Wickersley Wood). The report provides recommendations for mitigation and confirms the need for application to Natural England for a European Protected Species licence.

The survey extent and methodologies are suitable and the results of the survey work are accepted. The mitigation measures proposed are considered to be appropriate and adequate. The mitigation is required as the development proposals will result in the loss of a bat roost and the potential harm to bats if they are present at the time of demolition. Mitigation is proposed as follows:

- Undertaking further activity survey prior to building demolition.
- Roof coverings and fascias to be removed in an appropriate method by hand under supervision of a licensed ecologist.
- Timing of works will be outside the main summer roosting period.
- Permanent roost provision will be erected in mature trees on site to be retained prior to any demolition works.
- Permanent roost provision will be made within the development.

With the above mitigation in mind the proposed development is considered acceptable and two relevant planning conditions have been attached.

Conclusion

The development will provide high quality residential units in a sustainable location with access to a variety of local services and modes of transport. The proposals also meet to an acceptable degree the advice and criteria in all the other material considerations referred to above and are acceptable in terms of the design, scale and massing, along with the impact on the amenities of adjoining occupiers and the character of the adjacent area. Furthermore it is not considered that the development would unduly affect existing landscaping or biodiversity in the immediate locality, subject to appropriate conditions.

It is further considered that the proposal will not be detrimental to highway safety and that the proposed access is capable of accommodating the development as a whole.

Conditions

01

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

Reason

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

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 Nos. MW-PL4, MW-PL6 & MW-PL7 (received 27 Feb 2014)
MW-PL1 (Revision A), MW-PL2 (Revision A), MW-PL3 (Revision A), MW-PL5 (Revision A), (received 27 May 2014).

Reason

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.

Reason

To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity and in accordance with UDP Policy HG5 'The Residential Environment'.

04

Before the development is brought into use the sight lines indicated on Drg No MW-PL1 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 600mm above the level of the adjacent footway and the visibility thus provided shall be maintained.

Reason

In the interest of highway safety.

05

Prior to the commencement of development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

06

No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

07

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

Reason

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'.

08

Before the development is brought into use, a Landscape scheme, showing location and types of landscape treatment shall be submitted for approval by the Local Planning Authority. The Landscape scheme should be prepared in accordance with the RMBC Landscape Design Guide (April 2014) and shall be implemented in the next available planting season and maintained to ensure healthy establishment. Any plants dying, removed or destroyed within five years of planting shall be replaced the following planting season.

Reason

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'.

09

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 metre high barrier fence in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction and positioned in accordance with Figure 2 and Appendix 2 of the submitted Arboricultural Impact Assessment from Wharnccliffe Tree and Woodland Consultancy dated, 24 April 2014. 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.

Reason

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

Prior to the commencement of development a biodiversity enhancement statement, including a schedule for implementation, shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed statement before the development is brought into use.

Reason

In the interests of the local ecology in accordance with advice in the NPPF.

11

Prior to the commencement of development confirmation will be submitted to and approved by the local planning authority that all measures recommended in the Estrada Ecology Bat Activity Survey Report will be implemented.

Reason

In the interests of the local ecology in accordance with advice in the NPPF.

Informatives

01

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.

02

INF 25 Protected species

Wildlife Legislation

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

POSITIVE AND PROACTIVE STATEMENT

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

Application Number	RB2014/0318
Proposal and Location	Demolition of existing units and construction of new food store with car parking, landscaping & associated works at land at Muglet Lane/Hamilton Road, Maltby S66 7NE for Aldi Stores Ltd
Recommendation	Grant subject to conditions



Site Description & Location

The site to which this application relates comprises of a relatively level parcel of land some 0.58 hectares in area and currently contains a longstanding general industrial company (Lantern Engineering) with its existing portal framed manufacturing buildings and associated two storey brick built office building along with its accompanying open storage areas, and ancillary parking areas.

The site fronts Hamilton Road to the west and Muglet Lane to the south-east and has 2 metre high boundary treatments running the full extent of these boundaries comprising of a dwarf brick wall topped off with palisade fencing.

To the north of the site, lies the former Council depot (with existing residential development beyond) separated from the application site by 2 metre high palisade fencing. To the east lies a footpath which forms part of a public right of way which separates the application site from the adjacent playing fields associated with Maltby Craggs and St Mary's RC Schools.

Other developments in the locality of the application site include Maltby General Store being located adjacent to the exit point of the footpath on Muglet Lane, and an area of residential properties to the west across Muglet Lane. An MOT garage and restaurant is located across Hamilton Road.

Background

The application site has historically been the subject of numerous planning applications relating to replacement buildings, the construction and re-cladding of existing buildings, installation of 2 No. portacabins and raising the height of perimeter fencing and gates, all associated with the commercial operations carried out on the site.

More recently, an application for the erection of 32 no. two and three storey dwellinghouses and garages (reference RB2006/1250) was refused permission on 28 September 2006 with a subsequent appeal against the Council's refusal being dismissed on 24 August 2008. The reasons for refusing this application were:

01

The site is allocated for Business purposes in the Rotherham Unitary Development Plan, and the Council consider that the loss of this business site to residential development would be in conflict with Policies EC1 'Existing Industrial and Business Areas' and 'EC 1.1 Safeguarding Existing Industrial and Business Areas' of the Unitary Development Plan, which supports only proposals that will safeguard the viability of business and industrial areas.

02

The Council consider that the site provides valuable employment opportunities with the potential to contribute towards the range and quality of employment land in the area. As such the proposal is therefore in conflict with Policies EC 3.2 'Land Identified for Business Use' and Policy EC 3.3 'Other Development within Industrial and Business Areas' in the adopted Unitary Development Plan, which seek to provide business sites which are situated within or close to residential areas.

A further scheme for the erection of 20 no. two storey dwellinghouses with rooms in roofspace and dormer windows, 12no. two storey dwellinghouses and associated garages (reference RB2007/0306) was refused for the above stated reasons on 15 May 2007.

An outline application for demolition of existing depot and erection of residential development with partial means of access onto Hamilton Road (reference RB2014/0319), which uses part of the Lantern Engineering land. is being considered elsewhere upon this agenda.

The proposals have previously been screened as part of the pre-application advice given by the Council to determine whether an Environmental Impact Assessment should accompany the application. The proposed development falls within the description contained in paragraphs 10 (b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and meets the criteria set out in column 2 of the table, i.e. that the area of the development exceeds 0.5 hectares. However, taking account of the criteria set out in Schedule 3, the opinion has been reached 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 and therefore an Environmental Impact Assessment was not required to accompany the application.

Proposal

The applicant is Aldi Stores Ltd who proposes to undertake wholesale demolition of the existing Lantern Engineering buildings within the site and to replace them with a new retail foodstore comprising of 1,000 sq.m net sales area with additional storage, staff and office facilities totalling 1,533sq.m gross internal area (1,586sq.m gross external area with outdoor canopy). The scheme proposes the closure of the current access onto Hamilton Road and the formation of a new access point to Muglet Lane. In addition, a secondary access point located adjacent to the public footpath is proposed to be closed off with the immediate areas of hardstanding taken up and replaced by a landscaped area. The inclusion of this additional area of land has been negotiated since the application was originally submitted.

The scheme as submitted indicates a total on-site parking provision for 97 spaces which includes 5 No. disabled and 7 No. parent and child spaces, and in addition 2 No. motorcycle spaces and 10 No. cycle spaces (5 hoops) would be provided. The application indicates that HGV servicing for the building would be provided alongside the southern elevation of the proposed building with turning facilities being indicated within the proposed store car parking area.

The form of the building is indicated to be of single storey flat roofed construction, with dimensions of 50 metres in depth; 36.3 metres in width; with the height of the building ranging between 5.6m – 6.7m when measured from the lowest adjacent land level, with the general height of the building when measured from its finished floor level being 5.4 m. In terms of materials of construction the building is indicated as having a brickwork plinth and white through colour render above, and powder coated grey aluminium roof flashings and overhanging front canopy, along with window frames and entrance door surrounds.

The applicants have indicated that following on from the recent applications at Bramley and Swallownest Aldi's operational requirements for opening hours have changed slightly in that instead of requesting the proposed store opening hours 08.00 – 21.00 Monday to Saturday as originally submitted they request a further hours operation until 22.00 Monday to Saturday. On Sundays they would look to open between 10.00 -17.00 as approved at Swallownest and Bramley, noting that it is now common practice for retailers to operate standard Monday times on Bank Holiday Mondays and would not wish to be restricted in this respect. No proposed changes to the proposed delivery hours of Monday to Saturday: 07.00-23.00hrs & Sunday: 09.00-22.00hrs are sought.

The following supporting documents have been submitted with the application:

The Design & Access Statement (DAS):

The DAS comments that: "properties in the immediate area of the site vary in quality and materials the newest developments are simple in overall design using a palette of predominantly red brick and tiled roofs, older developments are predominantly brick, stone and render with tiled roofs. The commercial buildings opposite the site on Hamilton Road are a mixture of brick, metal cladding and render."

The DAS notes: "...taking into account the adjacent properties and the mix of contrasting materials in the immediate vicinity the overall design of the proposal has been developed in a contemporary modern style, with a simple palette of materials designed to complement the nearby properties whilst also creating a crisp and sharp edition to the streetscape. The proposal will be striking and clear in overall form."

The DAS further goes on to note that: "...the contemporary feel to the store is created by using large elements of shopfront glazing together with an oversailing minimalist canopy line which signifies the store entrance and the primary elevation from which the public shall approach the site facing Muglet Lane and Hamilton Road. High level glazing will flood light over the top of the sales layout in a ribbon arrangement in line with the canopy structure adding interest to the long side elevation."

The DAS advises that: "...the main element of the building is in white render with a contrasting low level red brick plinth to match the existing character of the area with the introduction of ribbon windows to break up the long elevations and large elements of shopfront glazing facing the main elevation onto Muglet Lane and Hamilton Road. These elements will work alongside the softer landscaped elements around the boundary edge to provide a more complementary proposal for the site whilst the brick detailing references the surrounding residential properties within the vicinity."

The DAS additionally mentions that: "...tree planting to the sites boundaries will provide structure to the landscape and an element of visual screening of the car park from Muglet Lane and Hamilton Road and the sides of the store from the surrounding properties. A mix of low to medium height shrub species will provide a strong and bold planting statement to the western boundary whilst still allowing visual permeability through to the building. The planting bed on the northern and southern boundaries will contain more medium to large height species to provide a strong buffer at the residential edges of the site."

The DAS concludes that the proposal comprises of a foodstore utilising a contemporary design with materials that complement the surrounding area and character of Maltby. The overall massing and design is consistent with many local buildings. A strong built frontage, glazing and detailing have been proposed to ensure a high quality development that integrates successfully with the existing urban grain.

Noise impact assessment (NIA):

The NIA identifies potential noise sources arising from the development to include:

- noise from new fixed plant installations;
- noise from the store / car park hours of operation;
- noise from the service yard, including delivery vehicle movements.

The NIA notes that: "The store is to be served by a single delivery bay. To mitigate the impact on the proposed new dwellings on the northern boundary it is proposed that the delivery bay is located at the south end of the building, acoustically screened from the nearest houses by the bulk of the building," and that; "...the expectation is that the unit will be served by just one vehicle daily, arriving during the day or within 2 hours of store opening / closing time."

The NIA concludes that with the proposed fixed plant will be unlikely to give rise to complaints from local residents, whilst the operation of the store / car park is again unlikely to have a negative impact on the amenities of local residents in terms of noise.

Tree Survey:

Notes that the site contains limited on site trees including a group of 2 Leyland Cypress against the existing boundary fence; along with ornamental Yew, Elder, Lleylandii, and Sycamore and that these are to be removed as part of the proposed scheme having been assessed as being of low quality and amenity value. One Sycamore and Crab Apple are identified for retention owing to their moderate quality and amenity value along with the fact they are located on third party land, and that protective fencing in accordance with the relevant British Standard are installed and retained during demolition / construction works to protect these.

Flood Risk Assessment (FRA):

The submitted FRA notes that Maltby Dike is located approximately 650m to the west of the site, and is entirely within Flood Zone 1 'Low Probability' as identified on the Environment Agency's indicative flood map. The FRA notes that the site may be at risk of flooding from the existing drainage systems adjacent to the site, and recommends that the proposed ground levels are configured such that any flooding on site is directed away from the proposed building and that any finish floor levels are set 150mm above the average site level to ensure any floodwaters are directed away from the proposed building.

Phase 1 Geo-Environment Report:

This report in summary notes that the site remained undeveloped until 1948 followed by varying phases of construction associated with buildings across the site which has included a series of lock up garages/cabins and numerous depot and factory buildings. Although not identified on the historical plans, there is a suggestion that the adjacent Refuse Tip / Landfill Site extends on to the eastern portion of the site as well as being present to the north (below the former Council Depot). The surrounding area has been heavily developed for residential and commercial properties with associated infrastructure and garages (i.e. vehicle repair/servicing), although the area of the Refuse Tip is now a playing field.

The feasibility report which accompanies the above Phase 1 Geo-Environment Report further identifies that:

- Taking account of the very flat nature of the site with levels across the site ranging from approximately 101.30m to 101.80m AOD, there is not a requirement for engineered slopes or retaining structures other than those situated around the proposed loading bay.
- Infiltration methods may be considered suitable given the types of natural strata below the site. Soakaway testing in accordance with BRE Digest 365: Soakaway Design will be required on site to determine permeability rates and therefore the size of any attenuation tanks. Any soakaways should be located towards the western end of the site away from the former landfill areas. Further site investigation will be required to accurately determine the extents of landfill and to determine the location of any proposed soakaways.
- As the proposed building structure is to be constructed in the eastern portion of the site and therefore encroaching in to the area where the former landfill site may be present, conventional shallow strip, pad or deep trench fill foundations may not be suitable, although this is wholly dependent upon the depth of this infilled feature (i.e. <3m). During any excavation works, adequate trench wall

support may also be required if the materials are unstable during excavation. If a greater depth or unsuitable materials are identified then a piled solution or ground improvement solution may also need to be considered. At this stage, all foundations should be taken down through any made ground & residual soils and based within competent natural bedrock deposits. Detailed foundation requirements should be assessed following the completion of an intrusive ground investigation.

- The site is considered stable with respect to mining; therefore there is no requirement for intrusive investigation works to be completed.
- The preliminary ground gas risk assessment identifies that there is a medium to high risk to the development from ground gas arising from the presence of the made ground across the site and from the materials within the landfill site. Therefore, it is likely that a ground gas assessment will need to be completed to determine whether any gas protection measures may be required.

The report concludes a ground investigation should be designed and carried out to address the above issues raised in the report.

Transport Assessment (TA):

Advises that the proposal would provide a food retail destination within walking distance of many properties within an established urban area, and is accessible by all modes of travel. The proposal increases the number of parking spaces on offer within Maltby and as such the propensity for linked trips is extremely high (this may be a key benefit at school drop off and collection times). Capacity assessments have been carried out (taking account of the proposed outline residential development, being carried out on the adjacent development site), and the results demonstrate that there is a negligible impact arising from these combined developments in the 2013 and 2018 assessment years.

The TA concludes that there are no highways or transportation reasons as to why this development should not be approved.

Travel Plan (TP):

The submitted TP sets out: measures, objectives and targets for reduced car usage and increased non-car transport usage, including modal split targets; the provision of Travel Plan Co-ordinator including roles, responsibilities and annual monitoring; the provision of travel Information; implementation and review timescale; and enforcement, sanctions and corrective/review mechanisms.

The measures contained within the TP note that it shall be implemented in accordance with the approved timescale, except where the monitoring evidence demonstrates that a revised timescale/measures to achieve trip targets are necessary.

Statement of Community Involvement:

Notes that pre-application discussions have been held with RMBC and that as part of the advice offered it was determined that in line with the Council's 'Statement of Community Involvement,' (SCI) document that prior to submitting the formal planning application for the site, Aldi undertake a detailed programme of community consultation which has subsequently involved:

- Initial local stakeholder (Maltby Town Council) meeting - 06th February January 2014.
- Posting of a newsletter with response card to 1,735 local addresses along with Ward and Parish Councillors.
- Public exhibition displaying the proposals held on 15th January 2014 between 3.00pm and 7.00pm.
- A breakdown of the responses received (up to 5th February 2014) following on from the above SCI indicated:

Total no. of responses	Supporters with positive comments	Support with reservations	Support no comment	Objectors	Neither support nor object
298	183 (61%)	08 (3%)	100 (34%)	07 (2%)	0 (0%)

In assessing the comments received, those in support quote the following as being a positive for the introduction of a store in Maltby:

- Good for Maltby / community; Jobs and employment; Convenient location; Choice and competition; Quality / price / value for money; Already an Aldi shopper; General Positive comment; Improve appearance of site; Provide more parking.

Those in support (but with reservations) quote the following issues:

- Traffic during Peak Times on Muglet Lane; Traffic / local school conflicts; would prefer housing only.

Those who object quote the following as being a negative for the introduction of a store in Maltby:

- Road safety and conflict with local schools; Impact upon local businesses; Supermarket not needed.

Planning and Retail Statement (PRS):

This document acknowledges that the site is located some 380 metres distance from Maltbv Town Centre and therefore represents an out-of-centre location in retail planning terms. It adds that the primary catchment area for the proposed store is Maltby (as the benefits of cheaper shopping are diminished if customers have to travel far), however with a catchment area of a 4 – 4.5km radius this further incorporates Hellaby to the west, Micklebring to the north, Laughten-en-le-Morthen & Firbeck to the south and the extremities of Tickhill to the east.

In terms of the sequential test, the PRS sets out the deprived economic nature of the location and details a qualitative need for a discount foodstore, and includes a sequential assessment of 4 other sites in the area and discounts all of those sites concluding that the application site is the most sequentially preferable within the defined catchment area to deliver a localised foodstore.

The applicant notes within the PRS that an impact assessment, does not apply in this instance (as the floor area does not exceeds 2,500 square metres), nevertheless an assessment has been carried out in proportion to the scale of the proposals. This concludes that much of the trade diversion would be from larger stores outside of the catchment area, such as Morrisons at Bramley and Tesco at Dinnington as well as from other Aldi stores in the area i.e Dinnington, Masborough, and Fitzwilliam Road.

The PRS adds that the Rotherham Town Centre Retail and Leisure Study (2011) draws on the Household Survey of 2009 which concluded that Zone 6 (which includes Maltby / Hellaby) only retained 57% of its trade, meaning that the remaining 47% of trade was being achieved outside of the catchment area.

In conclusion the PRS notes that the introduction of the proposed store would improve expenditure retention and contribute to more sustainable shopping patterns and shorten journey lengths. It further concludes that there is sufficient capacity to accommodate a further foodstore without significant impact on existing stores within the catchment area.

Development Plan Allocation and Policy

The site is allocated for Business purposes on the UDP, the following 'saved' policies and guidance are considered to be of relevance to the determination of this application:

- EC1.1 'Safeguarding existing industrial and Business Areas'
- EC3.2 'Land identified for Business Use'
- EC3.3 'Other Development within Industrial and Business Areas'
- ENV2 'Conserving the Environment'
- ENV2.2 'Interest Outside Statutorily Protected Sites'
- ENV3 'Borough Landscape'
- ENV3.1 'Development and the Environment'
- ENV3.2 'Minimising the Impact of Development'
- ENV3.7 'Control of Pollution'
- ENV4.4 'Contaminated Land'
- T6 'Location and Layout of Development'
- T8 'Access'

Other Material Considerations

Council's Parking Standards (adopted June 2011), recommends A1 retail units should have a maximum of 1 space per 14 sq m plus accessible parking

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

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

Publicity

The application has been advertised by way of press notice along with the posting of site notices in the locality of the site on Hamilton Road and Muglet Lane. In addition individual notification letters have been sent to occupiers of adjacent properties.

In total 139 letters of representation have been received, all in support of the application.

Of those letters in support, the majority of these (116) have been submitted using a standard letter stating: “I am writing in support of the development proposals for land at Muglet Lane, Maltby. Please keep me informed of progress with this application.”

A further space to enable respondents to submit additional remarks has attracted the following comments:

- Choice and competition for shopping; Affordable prices; Good quality food; Accessibility of the site for residents; Value for money; Already Aldi shoppers, so will reduce journey lengths; New Jobs for the area; Redevelopment/Improve the site; Good addition to the community; and Convenient location.

There has been one right to speak request at the meeting from the applicant.

Consultations

Streetpride (Transportation and Highways) Unit – Considers that the information and conclusions as set out in the Transportation Assessment along with the Stage One Safety Audit undertaken are sound and the draft Travel Plan submitted can be updated, controlled and enforced by the imposition of a suitable condition. In layout terms the revised proposals which incorporate additional alterations to the site layout overcome previous concerns. Therefore raise no objections subject to the recommended conditions to ensure the following:

- details of the proposed vehicle access, including footway / kerblines works and the relocation of a sign / bin in Muglet Lane;
- details of 2 No tactile pedestrian crossings on the site frontage (1 No to the North of the proposed site access and 1 No to the South of the site access) to Muglet Lane;
- a Car Parking Management Strategy (including details of the availability of 2 hours free car parking for customers and non- customers of the store), to be submitted to and approved by the Local Planning Authority;
- drainage details of all hardsurfaced areas;
- laying out of all parking areas;
- closure of exiting access points onto Hamilton Road / Muglet Lane; and

- a Travel Plan to be submitted to and approved by the Local Planning Authority.

Streetpride (Rights of Way) – Comments that the route of Maltby Footpath No.22 lies adjacent to the additional area of land currently proposed to be incorporated into the new landscaped area, however this would be unaffected by the proposals.

South Yorkshire Passenger Transport Executive (SYPTTE) – Do not raise any objections to the proposals and consider that any bus stop improvements in the locality can be achieved via the outline application for residential development (ref 2014/0319).

Neighbourhoods (Environmental Health) Services – Concludes that due to the proximity of the proposed development to residential properties there is potential for disamenity from the following:

- Noise and dust during the construction phase.
- Potential noise from the external refrigeration units/air conditioning units.
- Potential light nuisance from the external lighting.
- Potential noise nuisance from the delivery lorries early morning or late at night.

However subject to the imposition of the recommended conditions in respect of hours of opening (store & deliveries) along with details relating to external lighting and a noise mitigation strategy to ensure that the background noise is not exceeded by 5dB(A) during the day and 3 Db(A) at night, along with the imposition of a suitable informative in relation to the control of working practices during construction phase, then no objections are raised.

Neighbourhoods (Contaminated Land) – Comments that the proposed development is to be constructed on the eastern portion of the site which was formally occupied by the landfill site, and that taking account of the site's current and historic uses and the surrounding land uses, there is potential for contamination of soils and groundwater to exist from activities undertaken which have the potential to affect human health. There is also potential for migration of contaminants from off-site sources including a Council depot and a servicing/repair garage. Furthermore, it is possible that the underlying principal limestone aquifer could be affected by contamination.

Possible contamination from the above uses on site may include total petroleum hydrocarbons, poly aromatic hydrocarbons, heavy metals, solvents, inorganic elements and asbestos.

Ground gas may also be present in association with potential underlying made ground at the application site and from the former landfill site. It is known that this landfill site accepted domestic, commercial, industrial, sewage sludge and asbestos wastes. These types of waste have the potential to generate landfill gas consisting principally of methane and carbon dioxide gas.

The Coal Authority has confirmed the application site is reported to be within a low risk area for future development and the risk of mines gas is reported to be unlikely.

In conclusion, it is recommended that an intrusive site investigation is required to be undertaken to quantify the presence, depth and concentration of contaminants within the proposed development area. The results of investigations and chemical testing may reveal that remediation works are required at the site. However such a request can be controlled via the imposition of appropriate conditions.

South Yorkshire Mining Advisory Service – Comments that the site is not located within a coal mining referral area and therefore a coal mining risk assessment is not required. The applicant has provided a phase I desk top study report for the site which identifies the presence of an adjacent landfill site. The report also indicates that there is some doubt about the true extent of the landfill and that made ground may be present at the location of the proposed food store. Given the above and the industrial nature of previous land use it would be advisable to undertake site investigations to confirm the situation. Provided the site investigation work and any necessary mitigating actions are taken (eg suitable foundation design) no objections are raised to the proposal.

Streetpride (Landscape Design) – Comments that the proposed landscaping of the site as shown on the revised plan (Vector Design Concepts drawing no. V1126 L01 Revision B) shall be carried out during the first available planting season after commencement of the development and that this request can be controlled via the imposition of an appropriate condition.

Streetpride (Tree Service Manager) – Notes that the report states 2 trees will be retained positioned off site, (T3 Sycamore and T4 Apple), and their future prospects safeguarded throughout any development by protective fencing. From the submitted details the exact distance they are from the site boundary is unclear. The distance from their main stems to protective fencing in accordance with the submitted details (stem diameters of 14cm - T3 and 16cm - T4) and BS 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations are 1.7 and 1.9m respectively. Therefore, unless any further information is available to show / confirm they are at a greater distance from the site boundary than this, the standard planning tree barrier fencing condition should be included with any consent.

Streetpride (Ecology Officer) – Raises no objections to the principle of the proposed development on grounds of ecology taking account of the fact that the site has limited ecological interest comprising of predominantly hard-standing or buildings with limited areas of low quality habitat. The landscaping proposals will offer a minor enhancement to the current situation, although it is recommended that the wildlife legislation informative is provided with any planning decision issued.

Streetpride (Drainage) – Raises no objections in principle to the development, and notes that the recommended conditions can be imposed in order to ensure that a comprehensive drainage layout for both foul and surface water drainage can be developed in order that existing site levels are maximised. Additional comment is raised to the fact that proposed surface water should be reduced based on the existing flows from the site with a minimum of 30% reduction designed to a 1 in 1 year return storm period (as advised in the submitted FRA). In addition it is noted that on site attenuation will be required, with petrol interceptors required for car parking areas. In conclusion it is further noted that SUDS should be considered for the site.

Environment Agency – Comments that the scheme can only be considered acceptable subject to the imposition of an appropriate condition requiring that surface water draining from areas of hardstanding shall be passed through a trapped gully or series of trapped gullies prior to being discharged into any watercourse, soakaway or surface water sewer. The gully/gullies shall be designed and constructed to have a capacity compatible with the area being drained.

South Yorkshire Police (Architectural Liaison) – Comments that the relevant Security and Safety consideration are contained within the Design and Access statement and subject to the inclusion of Laminated Glazing in the building and consideration being given to the parking area achieving the Safer Parking standards and award, no objections are raised.

Neighbourhoods (Urban Design) – Reiterates the Police Architectural Liaison (PLA) comments above and notes the only concern relates to the path surrounding the rear of the store and how this could be secured in order to satisfy the PLA. Further comment is made that the north facing (side) elevation to the store should be less imposing, and appropriate to border a housing estate.

Appraisal

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

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

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

The main issues to be considered in the determination of this application are as follows:

- Principle of development (including loss of employment land).
- Retail issues arising.
- The layout and design of the development.
- Landscaping issues.
- Ecology / biodiversity issues.
- Impact on neighbouring amenity.
- Contaminated land issues.
- Impact on highway safety.
- Drainage/ flooding issues.

Principle of development:

Paragraph 14 to the NPPF notes that: "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.”

Taking account of the above, the two key policy issues are the loss of employment land, particularly given that the existing business remains active,(although they are actively looking to relocate within Rotherham’s boundary) and compliance with the sequential approach given that it proposes retail development in an out of centre location (as discussed in the retail issues below).

With respect to loss of employment issues, the site this is currently allocated for Business use in the UDP. Therefore the ‘saved’ policies in the UDP relevant to this application are:

EC1.1 ‘Safeguarding existing industrial and Business Areas,’ notes that: “The Council will support proposals which safeguard the viability of established industrial and business areas, including those which seek to improve buildings, infrastructure and the environment.”

With the above in mind, it is noted that in refusing previous applications for residential development upon this and the adjacent Council owned depot site in 2007 the Council were at that time protective over the potential loss of viable employment sites, and this view was subsequently upheld on appeal.

The situation in respect of this site has, however, shifted in policy terms following the previous applications and the Council’s Employment Land Review 2010 where it has now been recognised that re-allocating this land for alternative use(s) may offer potential to meet some of Maltby’s housing needs, bearing in mind the additional pressure constraints to add further development around the edges of Maltby.

The moderate score of this site in the Employment Land Review with a recommendation to consider re-allocation to other uses in respect to this site is further considered to echo the advice contained within paragraph 22 to the NPPF which notes: “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

With the above in mind, as with other cases in the Borough where alternative uses have been sought on employment sites, the Local Planning Authority has sought evidence that the site is no longer suitable or viable for employment use, typically through evidence that the site has been marketed unsuccessfully for around 12 months. This approach has been adopted in the past with both the Lantern Engineering site and the adjacent Council Depot where it is believed that these have been marketed individually since the planning appeal inquiry in 2007 and more recently as a joint site with no uptake/interest being shown for a mixed development other than from the current applicants.

Taking account of the overall policy shift and the reasonable marketing undertaken the further loss of employment land needs to be considered in light of UDP Policy EC3.3 'Other Development within Industrial and Business Areas,' which additionally notes that: "Within the sites allocated for industrial and business use on the Proposals Map, other development will be accepted, 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, where such development can be shown to be ancillary to the primary use of the area, or would provide significant employment and it can be shown that:

- (i) there are no suitable alternative locations available for the proposed development,
- (ii) no land-use conflicts are likely to arise from the proposed development, and
- (iii) the proposal significantly increases the range and quality of employment opportunities in the area."

With regards criterion (i) suitable alternative sites are considered in the sequential test (considered below).

With respect to the above criterion (ii), it is unlikely that any land use conflicts will arise from the proposed development bearing in mind the consultee comments received upon the current application (particularly given the nature of the existing operation).

With respect to criterion (iii) it is noted that that the Planning and Retail Statement indicates that the development will create up to 35-40 full and part time jobs and up to 200 jobs during construction and it is welcomed that the applicant is prepared to enter into a Local Labour Agreement in respect to this matter..

In addition to the above, it is further noted that as a brownfield site in an urban area the principle of redevelopment is broadly consistent with the advice in paragraph 17 to the NPPF which notes that: "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning (amongst others) should:

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- encourage the effective use of land by reusing land that has been previously developed (brownfield land)."

In addition, paragraph 111 to the NPPF notes that: "Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value."

Taking account of all the above, it is considered that the proposals as submitted do not conflict with the aims and objectives of UDP Policies EC1.1 'Safeguarding existing industrial and Business Areas,' and EC3.3 'Other Development within Industrial and Business Areas,' and is further in accordance with the advice within the NPPF.

Retailing Issues:

Paragraphs 23-27 of the NPPF give guidance on how applications for retail, leisure and office development on the edge of or outside of town centres should be assessed. Paragraph 27 of the NPPF indicates that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

Paragraph 24 of the NPPF requires the application of a sequential test to planning applications for 'main town centre uses which are not in an existing centre and are not in accordance with an up-to-date development plan.' The order of preference for the sequential approach remains unchanged from PPS4, namely:

- (1) locations within existing town centres;
- (2) second, edge-of-centre locations, with preference given to accessible sites that are well-connected to the centre; and then
- (3) out-of-centre sites, where there are no in-centre or edge-of-centre sites available. Preference should be given to accessible sites that are well connected to the town centre.

Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

With the above in mind, it is acknowledged by the applicant that this site represents an out-of-town location and has submitted a total of 4 alternative sites within the Maltby locality as part of its sequential assessment.

Site 1 – Vacant Units, Maltby Town Centre:

These units surveyed are all included in the primary shopping street allocation in the Town Centre and comprise of:

58-60 High Street, Tudor House Carpets & Furnishings (approx. 383 sqm);

92 High Street (Upper), storage for downstairs unit, (approx. 51 sqm);

12 Tickhill Road, former Sioux Hairdressers, (approx. 54 sqm)

4 -8 Tickhill Road, former Walker & Co Solicitors (approx. 143 sqm)

At the time of survey only one unit (4 - 8 Tickhill Road) was actively marketed. However, given the size of units, individual or combined, they are too small to accommodate an Aldi foodstore capable of providing a main food shopping function and have therefore been discounted as part of the sequential assessment.

Site 2 - Former Grand Cinema Retail Development, Muglet Lane:

The site was actively marketed and therefore 'available,' however the site is physically too small (0.06ha) to accommodate the proposals. Therefore the site is considered to be unsuitable for accommodating the application proposals. As such it is not a sequentially preferable alternative for the proposals.

Site 3 -Land to rear of Properties on Millindales:

This site at 0.75ha although large enough to accommodate an Aldi store of some 0.58ha it is unavailable and unsuitable due to the topography of the site and access which is undesirable for HGV and private vehicles. As such it is not a sequentially preferable alternative for the proposals.

Site 4- Maltby Town Council and land to the rear off Walters Road, Tickhill Road:

This site is not currently being marketed for redevelopment however there are aspirations for the Town Council to relocate elsewhere and was requested by the

Council to be included within the sequential assessment. The site is potentially available for redevelopment proposals by the Council, however at 0.48 ha, the site would not be able to accommodate the proposed Aldi foodstore which requires a site area of 0.58ha in order to provide a main food shopping destination, with associated car parking and servicing area.

The site is physically too small and constrained to accommodate the proposals in their entirety. Therefore the site is considered to be unsuitable for accommodating the application proposals. As such it is not a sequentially preferable alternative for the proposals.

With the above in mind, the findings within the sequential test state that there are no sites of a suitable size available (minimum 0.58ha) for development within the nearby Maltby Town Centre. Following consultation with the Council, these conclusions are accepted. It is also accepted that there are no more sequentially preferable edge-of-centre sites available between this site and the town centre.

Paragraph 26 of the NPPF notes that when assessing applications for retail, leisure and office development outside of town centres which are not in accordance with an up-to-date Local Plan (as occurs here) an impact assessment is required if the development is over a proportionate, locally set floorspace threshold (2,500 sq m if there is no threshold).

In this instance, the proposal is beneath the threshold and the applicant is not required to submit an Impact Assessment to demonstrate whether the new store will impact upon the nearby Maltby Town Centre. Whilst the Emerging Core Strategy requiring a localised threshold of 500 sq metres has not been adopted by the Council at this stage, the applicants have undertaken such an assessment in proportion to the scale of the proposals.

In respect of the likely impact, it is noted that the applicant considers that a proportion of the new customers will be existing Aldi customers who will have less distance to travel in order to access the proposed store. The Impact Assessment notes that the Council's 2011 Retail Study report identifies a high convenience trade leakage of some 76% from zone 6 residents (of which Maltby retains 22%) and that popular out of shopping destinations include Morrisons at Bramley (36.5%) and Tesco Dinnington (29.2%).

The report envisaged that any impact would be on a like for like basis in accordance with the 'Practice Guidance Notes' as well as proximity principal (i.e. stores closest to the proposal). On this point, Aldi stores act as main food shopping destinations and tend to compete with large out-of-centre superstores that draw trade from Aldi's proposed local catchment. Aldi also predict that some of the trade from their existing stores in the area will be diverted to the new store. These would be customers who are Aldi shoppers already but currently travel outside the catchment area i.e. to the Aldis at Dinnington, Masbrough and Fitzwilliam Road.

The trade diversion table contained within the report illustrates that the proposals will not result in a detrimental impact on existing foodstores and can be accommodated by diverting expenditure from an overtrading Morrisons store at Bramley (approx. £1.2million) which currently occupies an out-of-centre location; and the existing Aldi store at Dinnington (approx. £0.9million) which residents of Maltby are currently utilising,

as well as by drawing trade from the existing Tesco store at Maltby (in the region of £1.06m.)

In respect of the overall trade draw from Maltby itself, the report concludes that a small amount of trade draw from Maltby town centre has been accounted for. However on this point, it is noted that other stores within Maltby tend to attract customers who undertake 'top-up' shopping, mainly as they are conveniently located close to home and are open when the larger stores are closed. In light of this, Aldi do not consider that there will be a detrimental impact to Maltby town centre, as people will still continue to use this type of shopping facility, (as the intention is that trade is retained in Maltby for the benefit of the wider community). In addition, given the likelihood of linked trips and spin off trade (due to the nature of the Aldi provision) the overall impact is therefore considered to be negligible.

Taking account of all of the above the Council considers that the proposal meets the requirements set out in the NPPF and the application passes the sequential test and demonstrates through its impact assessment that the principle of an out-of-centre supermarket is therefore, acceptable in this location.

The layout and design of the development:

UDP Policy ENV3.1 'Development and the Environment,' states: "Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property."

UDP Policy T8 'Access,' notes that: "The Council will seek to meet the access needs of people with mobility and sensory handicaps by promoting careful design and improved provision in both the refurbishment and development of buildings, public spaces, community facilities and transport networks through the development control process and in the course of public service delivery."

The NPPF notes at paragraph 17 that: "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning (amongst others) should:

- always seek to secure high quality design..."

Paragraph 56 to the NPPF further notes that: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." Paragraph 64 additionally adds that: "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

The National Planning Practice Guidance (NPPG) notes that: "Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations," and that: "Good design

responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term.”

The NPPG further notes that: “Good design should:

- ensure that development can deliver a wide range of planning objectives.
- enhance the quality buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being.
- address the need for different uses sympathetically.”

With regards to layout considerations, the proposed site layout is informed by the design parameters on the site, including the position of the adjacent public footpath, and by the way in which the public can approach the site on foot, by bicycle and by car and for ease of servicing for Aldi's operational needs and format.

The store itself has been located towards the eastern section of the site and this to some extent has been dictated by servicing arrangements to maintain visual amenity of the area, away from the main store entrance and thus away from customers and its proximity away from existing (and proposed residential properties).

In regards to its orientation, the proposed store allows for its main glazed section to be visible from Hamilton Road to allow the creation of an active street frontage, with the main approach access point being taken from the south to enable the car parking areas to be located to the west of the store. The warehousing / plant and bin area elements of the scheme have been located to the rear of the food retail element to maximise active shop front creating a more open and inviting development.

With regard to scale and massing, the surrounding area comprises of a mix of commercial and residential properties incorporating building heights which range between two and two and a half storeys. The section drawings accompanying the application indicate that the overall scale of the proposed building with its flat roof element has been designed to take account of the relationship of the scale and massing of the adjacent properties. Taking account of the generally level nature of the application site, the height of the proposed building would still be some 1.88 metres lower than the nearest property (convenience store on Muglet Lane)

In design terms, due to the evolution of the site over time, there is no uniformity to the built form with many of the buildings reflecting a simple industrial shed design and materials of their time which include cladding to the roof / walls, with later additions comprising of brick / concrete tiled roofs to the office building. With the above in mind and taking account of the suburban context to the site, the scheme has not required further amendments since its original submission and therefore it is considered the large amount of glazing in aluminium frames as proposed for the elevations of the building fronting the car parking areas allows views into the store and adds legibility to the main entrance. An aluminium canopy is further proposed to be sited above the full length glazing and wraps around the corner to be above the main entrance and part of the elevation facing the car park. This feature highlights the entrance, adds interest and breaks up the massing of the store.

In addition, taking account of the location of the store, and access to parking and surrounding highways (Hamilton Road & Muglet Lane) along with the design of the

areas around the store entrance, this is further considered to meet the access needs and improved provision of people with mobility and sensory handicaps.

Overall, it is considered that the design of the store utilises a simple palette of materials that will result in a building with a clean appearance. Whilst not distinctive or original in design, the store will be more visually appealing than the existing buildings on site and is of an appropriate layout, scale, massing and design.

Taking account of all the above, the proposal is in accordance with UDP Policies ENV3.1 'Development and the Environment,' and T8 'Access,' along with the advice contained in the NPPF and the NPPG.

Landscaping issues:

In respect of landscaping on the site, UDP Policy ENV3.1 'Development and the Environment,' as set out above is considered to be of relevance, as is Policy ENV3 'Borough Landscape,' which notes that: "The Council recognises the vital importance of maintaining and enhancing the landscape of the Borough, pursuing and supporting this objective through positive measures or initiatives and, when considering development or other proposals, taking full account of their effect on and contribution to the landscape, including water resources and environments."

The NPPF at paragraph 58 notes that planning decisions should aim to ensure that developments are visually attractive as a result of appropriate landscaping.

With regards to landscaping matters, the applicants have submitted a revised landscaping scheme which further references the comments received from Streetpride in regards to incorporating the additional area of currently hardsurfaced area adjacent the public right of way into the site boundary and to suitably landscape this additional area of land. Elsewhere landscaping within the parking areas is indicated as a mix of ornamental planting and new tree planting whilst in terms of boundary treatments those areas to the rear of the site and adjacent the proposed residential area are indicated to be provided with close boarded fencing with the car parking area defined and separated from the highway junctions along the road frontage with a dwarf brick wall.

Overall, subject to the recommended conditions, the proposed landscaping is considered to accord with UDP Policies ENV3.1 'Development and the Environment,' and ENV3 'Borough Landscape,' along with the advice in the NPPF.

Ecology / biodiversity issues:

The NPPF advises at paragraph 117 that: "To minimise impacts on biodiversity and geodiversity, planning policies (amongst others) should:

- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan."

As the proposed development site is currently in business use and offers limited ecological interest, the Council's Ecologist advises that the structures present are unlikely to be attractive to roosting bat species and, given the use of the site, it is not required for bat survey work to be undertaken to inform the planning process. However,

bats can occasionally use any structure on a temporary basis and it is recommended that the relevant wildlife legislation informative is added to any planning decision to remind the developer of their responsibilities.

The ecologist further notes that there is limited vegetation within the proposed development site boundary and this is also unlikely to support roosting bat species. It is possible that the vegetation present will support bird species, which are protected from harm and disturbance whilst nesting. Any vegetation removal and any development work that may cause harm or disturbance should be undertaken only outside the main nesting season (March to July inclusive) unless the vegetation has been checked by a suitably experienced ecologist and confirmation has been obtained that no nesting activity is taking place. The development proposals include landscaping and although the extent of landscaping is limited it will offer a minor increase in semi-natural habitat and wildlife interest.

Taking account of the above it is considered that the proposals accord with the advice contained within the NPPF.

Impact on neighbouring amenity:

The NPPF notes at paragraph 17 that: "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning (amongst others) should:

- always seek... a good standard of amenity for all existing and future occupants of land and buildings."

In respect of the design of the development and its impact upon neighbouring amenity, taking account of the location / orientation of the proposed store and its associated parking area, there are not any properties directly affected by the proposed development. Wider ranging views of the development can be achieved by dwelling opposite on Muglet Lane, and it is considered that the visual appearance of the car parking has been satisfactorily mitigated against by the landscape buffer zone created in order to minimise the harm to those residents on the periphery.

Turning to the matter of loss of amenity through noise matters, UDP Policy ENV3.7 'Control of Pollution,' states: "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 co-operate 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.”

The NPPF notes at paragraph 123 that: “Planning decisions should (amongst others) aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.”

The NPPG notes that: “Local Planning Authorities decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur.
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.”

The NPPG further advises that: “...artificial light is not always necessary, has the potential to become what is termed ‘light pollution’ or ‘obtrusive light’ and not all modern lighting is suitable in all locations. It can be a source of annoyance to people...For maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time. Lighting schemes can be costly and difficult to change, so getting the design right and setting appropriate conditions at the planning stage is important.”

With respect to noise related matters the applicants have clarified that there is no extraction vents etc. on the roof of the proposed store, with all the extract, refrigeration equipment installed to the side elevation of the site adjacent to the loading bay (and on the opposite side of the building from the adjacent Council depot site which is subject to the current application for residential development). However, unlike the recently submitted Bramley application no extract specific technical specifications indicating the likely level of noise created by such equipment have been supplied. A Noise Impact Assessment (NIA) has however been submitted to accompany the application and notes that potential noise sources arising from the development could include:

- noise from new fixed plant installations;
- noise from the store / car park hours of operation;
- noise from the service yard, including delivery vehicle movements.

The NIA notes that: “The store is to be served by a single delivery bay. To mitigate the impact on the proposed new dwellings on the northern boundary it is proposed that the delivery bay is located at the south end of the building, acoustically screened from the nearest houses by the bulk of the building,” and that; “...the expectation is that the unit

will be served by just one vehicle daily, arriving during the day or within 2 hours of store opening / closing time.”

The NIA concludes that the proposed fixed plant will be unlikely to give rise to complaints from local residents, whilst the operation of the store / car park is again unlikely to have a negative impact on the amenities of local residents in terms of noise.

The applicants have indicated they are seeking delivery hours of Monday to Saturday 07.00 - 23.00 & Sunday 09.00 - 17.00 with revised opening hours 08.00 – 22.00 Monday to Saturday and 10.00 – 17.00 on Sundays (any 6 hours in line with current trading restrictions). This would be an hour later during the week than recently approved at Bramley and Swallownest applications. However these revised hours are in the applicant’s view designed so as give greater flexibility to Aldi’s operational requirements and it is not considered that they would be inappropriate in this location, bearing in mind the uncontrolled commercial activities that have taken place on the site.

With the above in mind, it is considered that the restricted number of deliveries and the proposed store opening hours (which fall within ‘normal’ daytime operating hours) would not give rise to unacceptable disturbance to nearby residential properties. In addition it is recommended in lieu of the technical specifications submission that a condition be imposed requiring the submission of a noise mitigation strategy and implementation of any mitigation measures arising as part of any planning application granted.

With regards to lighting (store and external parking areas) issues although no details have been submitted to indicate what levels of external lighting are required with this particular proposal, the applicant is happy to have a condition imposed requiring the submission and subsequent approval of external lighting.

Taking account of all the above, the Council’s Neighbourhoods (Environmental Health) Unit have not raised issue to the proposed delivery and stores hours of opening and are content with the imposition of a suitable condition in respect to noise mitigation measures, and it is considered that the proposed development would not unduly affect the residential amenities (noise, disturbance or lighting) of nearby residents to an unacceptable degree. As such, the proposals comply with UDP Policy ENV3.7 ‘Control of Pollution,’ the advice contained within the NNPF and the guidance outlined in the NPPG.

Contaminated land issues:

UDP Policy ENV4.4 ‘Contaminated Land,’ notes that: “Where land that may be contaminated as a result of previous uses, is proposed for development the Council will need to be satisfied that the applicant has:

- (i) undertaken investigations to establish the nature and extent of the contamination and its potential effects on the proposed development and/or the occupants thereof, and
- (ii) provided details of the measures proposed for the removal and/or treatment of the contamination which will not cause or increase pollution in the environment, particularly to watercourses and ground-water resources. Where permission is granted, such measures will be imposed as planning conditions to be

implemented prior to commencement of development or within a timescale agreed with the Council.”

The NPPF further notes at paragraph 120 that: “Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

The NPPF further advises at paragraph 121 that; “Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as ...pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
- adequate site investigation information, prepared by a competent person, is presented.”

In assessing the submitted Phase 1 Geo-Environment Report, the Council’s Contaminated Land (Development Officer) concludes that an intrusive site investigation is required to be undertaken to quantify the presence, depth and concentration of contaminants within the proposed development area. The results of investigations and chemical testing may reveal that remediation works are required at the site. This issue can be controlled via the imposition of the suggested conditions and informative.

Impact on highway safety:

UDP Policy T6 ‘Location and Layout of Development,’ states: ““In considering the location of new development, the Council will have regard to the increasing desirability of reducing travel demand by ensuring that (amongst others):

- (i) land-uses are consolidated within existing commercial centres and settlement patterns which are already well served by transport infrastructure,
- (ii) major trip generating land-uses, such as ...retail..., are located in close proximity to public transport interchanges and service corridors,
- (v) a range of services and facilities are available in villages and local centres with safe and convenient access for pedestrians, cyclists and people with disabilities.

In addition, the detailed layout of development should have regard to accessibility by private car, public transport, service vehicles, pedestrians and cyclists and people with disabilities.”

The Council’s Adopted Car Parking Standards (June 2011) note that A1 retail units should have a maximum of 1 space per 14 sq m plus accessible parking.

The NPPF notes at paragraph 32 that: “All developments that generate significant amounts of movement should be supported by a...Transport Assessment and...decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure.
- safe and suitable access to the site can be achieved for all people and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Paragraph 34 goes on to state that: “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework.”

Paragraph 36 further notes that: “All developments which generate significant amounts of movement should be required to provide a Travel Plan.”

The internal layout of the development has been amended at the request of Streetpride (Transportation & Highways) Unit in regards to the incorporation of an historic and former access point onto Muglet Lane (adjacent to the public right of way) along with associated visibility splays in this locality and this has had the associated effect of creating an additional couple of parking bays to that previously submitted. Other revisions include the relocation of the proposed cycle hoops to the front of the store.

With these revisions, Streetpride (Transportation & Highways) Unit confirms that the total of 97 spaces, including disabled bays as well as parent & infant bays, will meet the standards set out in the Parking Standards. In addition, cycle parking (10 spaces) for customers would also be provided which also accords with the Council’s adopted standards. It is further confirmed that the overall parking layout would not impede deliveries to the store and the laying out / draining of surfacing areas can be controlled via the imposition of an appropriate condition.

In highway safety terms and with regards to Trip Generation the submitted Transport Assessment (TA) indicates that catchment area for the store is based on residents primarily from Maltby and Hellaby generating approximately 102 additional vehicle trips (in both directions) in the PM peak hour and 122 additional vehicle trips (in both directions) in the Saturday peak hour. The TA has assumed that 50% of trips will be new, 30% diverted and 20% pass-by. The new trips have been distributed based on existing turning patterns, and the Transportation & Highways Unit are of the opinion that this provides an extremely robust modelling assessment and it seems very unlikely that traffic levels in Maltby will increase, although there is likely to be an alteration of turning patterns.

The TA has further considered the impact of the additional trips shown above on the operation of the following junctions;

- Muglet Lane/proposed Aldi access.
- Hamilton Road/Muglet Lane.
- Hamilton Road/Tickhill Road.
- Muglet Lane/Tickhill Road/High Street/Grange Lane.

The analysis of junctions has been carried out using the appropriate industry standards / programs, with future years until 2019 modelled using TEMPRO and National Road Traffic Forecasts from the Department of Transport. The results have concluded that the relevant junctions would all be within capacity to accommodate any additional traffic generation and that the effect of the proposed development on the network would be imperceptible.

Whether due to more people accessing their stores on foot or by bus, observational data at busy times suggests that Aldi stores never have a shortage of parking spaces. Therefore there should be no concern regarding off site parking. Given that there is a school next to the site it might be suggested that the car park could be made available for drop off and pick up of children.

The proposed store is in a location with a high density of residential housing within a 400m walking distance. The footway network in the area is generally of good quality, catering for current demand. The additional pedestrian trips to the new store can be accommodated within the current capacity.

The TA's claim that the site is accessible by public transport is accepted. Bus stops are moderately convenient for the proposed new store. The frequency of services is good and it is likely that some people would use them to access the store.

The site has relatively poor access for cyclists with little in the way of cycling infrastructure locally. However the TA and travel plan rightly consider the number of potential cycle trips to the site to be minimal and little reliance is placed on cycling's contribution to the sustainable mode share.

Having thoroughly investigated the accident data there are no common causal factors for the accidents and no particular road safety problem has been identified with most collisions resulting from driver error. Although the development will result in some additional turning movements there appears to be no reason to consider that they will constitute a road safety problem.

The application has further been accompanied with a Travel Plan which sets targets for sustainable transport to the store and incorporates staff cycling initiatives and use of non car modes of transport. Transportation & Highways Unit raise issues to its outcomes though it is however considered a fully detailed Travel Plan conforming to best practice should be conditioned in the event that planning permission is granted.

In view of the above, it is considered that the Transportation Assessment submitted in support of the application is acceptable and that the proposed development will represent sustainable development with no detrimental impact upon highway safety.

Drainage matters:

UDP Policy ENV3.2 'Minimising the Impact of Development,' notes that: "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..."

Although the site lies outside the identified flood zone, the applicants have submitted a Flood Risk Assessment (FRS) with this and the corresponding outline residential application.

The FRA notes that currently the existing site is predominantly hard surfaced and it is not considered that surface water run off would increase. The applicant has been asked to consider the use of Sustainable Urban Drainage Systems however this has been discounted at this point in time citing difficulties due to the previous uses of the land (and therefore contamination issues), although better ground attenuation could be achieved in the form of flow control / storage tanks (or similar), and this will result in the reduction of existing surface water flows by 30% (based on a 1 in 1 year return storm period for the existing surface water sewer serving the existing site).

In addition, in line with the requirements as requested by the Drainage Engineer, the applicant is happy to include details of petrol interceptors and proposed foul and surface water drainage details (including discharge points) and these are able to be controlled by the imposition of suitable conditions.

Conclusion

The proposed erection of a foodstore is considered to satisfactory meet the requirements of the sequential test by virtue of there being no more sequentially preferable sites available. Although this will result in the loss of allocated employment land it does however makes use of a brownfield site which will result in the creation of up to 35-40 full and part time jobs as well as providing a better and more sustainable service for the local community.

The site is widely accessible and raises no concerns from a highway safety or accessibility perspective and is backed up by a travel plan.

The layout and design of the scheme is considered acceptable and conforms to the environment in the site's immediate locality without unduly impacting upon the amenities of adjacent residential and commercial premises. A robust landscaping scheme is provided to soften the built development.

Overall the scheme is considered to be in accordance with relevant UDP Policies and the general guidance within the NPPF and the recently issued NPPG and it is recommended that planning permission be granted.

Conditions

GENERAL

01

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

Reason

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

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)

Drawing numbers:

Proposed GA dwg no. 1126 -103 (rec 25-2-14)

Proposed elevations dwg no. 1126 -103 (rec 25-2-14)

Proposed sections dwg no. 1126 -103 (rec 25-2-14)

Proposed roof plan dwg no. 1126 -104 (rec 25-2-14)

Amended location plan 1126 100 rev C (rec 6-5-14)

Site layout (rev c) 1126 100 rev C (rec 15-5-14)

Reason

To define the permission and for the avoidance of doubt.

03

No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

DRAINAGE

04

No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works, discharge points and off-site works, have been submitted to and approved by the Local Planning Authority and the development shall be implemented in accordance with the approved details.

Reason

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'.

05

No development shall take place until details showing how surface water run off will be reduced by 30% from that of the existing site have been submitted to and approved by the Local Planning Authority and the development shall be implemented in accordance with the approved details.

Reason

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'.

06

Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason

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

HIGHWAYS

07

Prior to the commencement of development, details of the proposed vehicle access, including footway / kerblineworks and the relocation of a sign / bin in Muglet Lane as shown in draft form on Drg No 1126-100 rev C shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is brought into use.

Reason

In the interest of highway safety.

08

Prior to the commencement of development, details of 2 No tactile pedestrian crossings on the site frontage (1 to the north of the proposed site access and 1 to the south of the site access) to Muglet Lane, shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is brought into use.

Reason

In the interest of highway safety.

09

Before the development is brought into use, that part of the site to be used by vehicles shall be properly constructed with either
a/ a permeable surface and associated water retention/collection drainage, or
b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained 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.

10

Before the development is brought into use the car parking area shown on Drg No 1126-100 rev C shall be provided, marked out and thereafter maintained for car parking.

Reason

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

11

When the proposed access has been brought into use, the existing vehicular access to Hamilton Road shall be permanently closed and the footway / kerbline reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason

In the interest of highway safety.

12

Before the proposed development is brought into use, a 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 time bound programme of implementation, monitoring and regular review and improvement. The Local Planning Authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan following submission of progress performance reports as time tabled in the programme of implementation. For further information please contact the Transportation Unit (01709) 822186.

Reason

In order to promote sustainable transport choices.

13

Prior to the development being brought into use, a Car Parking Management Strategy shall be submitted to and approved by the Local Planning Authority and the approved plan shall be implemented throughout the life of the store. The strategy shall include details of the availability of 2 hours free car parking for customers and non-customers of the store.

Reason

In order to promote sustainable transport choices and encourage linked trips to other facilities in Maltby Town Centre.

LANDSCAPING

14

Landscaping of the site as shown on the approved plan (Vector Design Concepts drawing no. V1126 L01 Revision B) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year

Reason

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

15

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 metre high barrier fence in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction and 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.

Reason

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'.

ENVIRONMENTAL

16

All deliveries to or collections from the store shall be carried out between the hours of: Monday to Saturday: 07.00 - 23.00 & Sunday: 09.00 - 22.00.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent property in accordance with UDP Policy ENV3.7 'Control of Pollution.'

17

The store hereby permitted shall be open to the general public between the hours of 08.00 – 22.00 Monday to Saturday and between the hours of 10.00 -17.00 on Sundays.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent property in accordance with UDP Policy ENV3.7 'Control of Pollution.'

18

Notwithstanding the submitted details with regard to externally mounted plant / equipment for heating, cooling or ventilation purposes (inc grilles, ducts, vents for similar internal equipment), no development shall take place until a detailed noise mitigation strategy has been submitted to and agreed in writing with the Local Planning Authority to demonstrate that noise levels at the nearest noise sensitive property boundaries from the aforementioned equipment shall not exceed existing background noise readings by 5dB(A) during the day and 3dB(A) at night. The approved details shall be installed as approved prior to the use commencing and shall thereafter be retained and maintained and should not be altered / replaced without the prior written approval of the Local Planning Authority.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent property in accordance with UDP Policy ENV3.7 'Control of Pollution.'

19

No development shall take place until details of the external illumination of the proposed store and car parking areas have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason

In the interests of neighbour and visual amenity and in accordance with UDP Policies ENV3.1 'Development and the Environment,' and ENV3.7 'Control of Pollution.'

20

Prior to commencement of development, an intrusive investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 – 4).

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21

Subject to the findings of condition 18, a Remediation Method Statement shall be provided and approved by this Local Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22

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

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23

Ground gas monitoring will be required to determine the ground gassing regime at low and falling atmospheric pressure conditions. This will enable a current gas risk assessment to be undertaken, to determine if gas protection measures are required for the proposed development. If gas protection measures are required for the site, these will need to be agreed in writing by the Local Planning Authority prior to development commencing, and approved details implemented before the development is brought into use.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24

Prior to development if subsoil's / topsoil's are required to be imported to site for remedial works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Informatives

01

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.

02

South Yorkshire Police Recommendations:

- The parking areas should offer a uniform light with no dark areas to BS 5489.
- The safer parking scheme 'Park Mark' should be considered.
www.saferparking.com
- All doors and windows should be to the standards required by Secured by Design. www.securedbydesign.com.
- The bin store should be secured at all times.

03

The applicants attention is drawn to the fact that in discharging the requirements of Condition 17 that Reference to Section 8 - Further Recommendations for Site Investigation Works on page 17 of the Phase I Geo-Environmental Assessment Report must be taken into consideration.

04

The applicants attention is drawn to the fact that in discharging the requirements of Condition 18 that as a minimum, gas monitoring should be undertaken on 12 occasions over a period of 6 months.

05

The applicants attention is further drawn to the fact that the approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Authority must be given two weeks written notification of commencement of the remediation scheme works.

06

The granting of this planning permission does not authorise any signage to be erected related to the development. Such signage is controlled by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and a separate application for advertisement consent may be required.

POSITIVE AND PROACTIVE STATEMENT

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

Application Number	RB2014/0319
Proposal and Location	Outline application for demolition of existing depot and erection of residential development (all matters reserved except partial means of access to, but not within, the site) at Former council depot site, Hamilton Road, Maltby, S66 7NE for Quora Ltd.
Recommendation	Grant subject to conditions



Site Description & Location

The site to which this application relates comprises of a relatively level parcel some 0.89 hectares in area and currently contains longstanding flat roofed brick built former Council depot buildings with their associated open storage and ancillary parking areas.

The site is bounded by Hamilton Road to the west from which access to the site is currently gained. To the north of the site is an existing established garage court along with residential development (Strauss Crescent). East of the site is bounded by playing fields for Maltby Crags Junior and Infant Schools which lies to the north east corner of the site.

The application site also includes a small part of the adjacent Lantern Engineering site which lies to the south. Adjacent the site to the west, across Hamilton Road is an MOT garage and restaurant along with part of Coronation Park (tennis and bowling greens) and residential properties further along Hamilton Road to the north.

The depot site is separated from Lantern Engineering by predominantly 2 metre high palisade boundary treatments with concrete post and insert panels to a height of approximately 2 metres on the northern boundary as well as the eastern boundary, which runs adjacent to the public footpath which forms part of a right of way separating the application site from the adjacent playing fields.

Background

The application site has been the subject of an outline application (MA1964/0812) for buildings and use land as public health highways and house repair depot and a subsequent reserved matters application for details of buildings for council depot under MA1965/0812A) approved in the 1960's

More recently, an application on the adjacent Lantern Engineering site to the south for the erection of 32 no. two and three storey dwelling houses and garages (reference RB2006/1250) was refused permission on 28 September 2006 with a subsequent appeal against the Council's refusal being dismissed on 24 August 2008.

A further revised scheme for the erection of 20no. two storey dwelling houses with rooms in roof space and dormer windows, 12no. two storey dwelling houses and associated garages (reference RB2007/0306) was refused on 15 May 2007.

Both above applications were refused permission for the following reasons:

01

The site is allocated for Business purposes in the Rotherham Unitary Development Plan, and the Council consider that the loss of this business site to residential development would be in conflict with Policies EC1 'Existing Industrial and Business Areas' and 'EC 1.1 Safeguarding Existing Industrial and Business Areas' of the Unitary Development Plan, which supports only proposals that will safeguard the viability of business and industrial areas.

02

The Council consider that the site provides valuable employment opportunities with the potential to contribute towards the range and quality of employment land in the area. As such the proposal is therefore in conflict with Policies EC 3.2 'Land Identified for Business Use' and Policy EC 3.3 'Other Development within Industrial and Business Areas' in the adopted Unitary Development Plan, which seek to provide business sites which are situated within or close to residential areas.

A full application for a retail food store, ancillary parking and landscaping (LPA ref: RB2014/0318), is proposed on the adjacent Lantern Engineering land to the south and is being considered elsewhere on this agenda.

The proposals have previously been screened as part of the pre-application advice given by the Council to determine whether an Environmental Impact Assessment should accompany the application. The proposed development falls within the description contained in paragraphs 10 (b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and meets the criteria set out in column 2 of the table, i.e. that the area of the development exceeds 0.5 hectares. However, taking account of the criteria set out in Schedule 3, the opinion has been reached 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 and therefore an Environmental Impact Assessment was not required to accompany the application.

Proposal

The applicant is Quora Ltd a property development company who specialise in acquiring land, promoting development and delivering regeneration to provide retail and mixed use developments throughout the UK.

The application was submitted originally in outline for the demolition of remaining buildings on the site and the erection of residential development, with all matters reserved other than means of access for future consideration. Following negotiations with officers, the description of the development has been amended to include 'partial means of access,' meaning that the specific access to the site onto Hamilton Road is for determination at this stage whilst access within the site is reserved for future consideration.

The indicative plan submitted with the application indicates a development of potentially 54 dwellings comprising a potential mix of houses and flats although it should be noted that that this is purely indicative and no number of dwellings has been specified in the application description.

The proposed means of access to the site is indicated as being located some 43m from the junction of Hamilton Road with Muglet Lane having its centre point set virtually opposite the Coronation Park pedestrian entrance on Hamilton Road. The proposed access would be provided with appropriate visibility splays and the current vehicular access would be closed off.

The following supporting documents have been submitted with the application:

Planning and Affordable Housing Statement:

The report identifies that the residential scheme has the capacity to deliver approximately 54 dwellings with an element of affordable housing (25%) and notes that in terms of linkages the site represents a 3 minute walk to the town centre, with commercial activity located along Muglet Lane.

The report concludes that the proposal has carefully considered design and density requirements as set out in both National and Local Plan policies, as well as the additional guidance as set out under supporting documents i.e. South Yorkshire

Residential Design Guide. Additionally as it is located within the built fabric of Maltby and will contribute towards the Council's need for housing growth this scheme should be supported.

The Design & Access Statement (DAS):

Concludes that the proposed scheme has been carefully considered in conjunction with the twelve questions outlined in the Building for Life 12 to respond to:

- The surrounding context.
- The constraints and opportunities as presented by the site.
- Existing trees/hedges to the site boundaries.
- Enhanced new landscape planting.
- A sense of place and enclosure around an area of recreational, community space.
- Linkage to future developments.

Additionally the DAS notes that: "...the proposal seeks to provide a high quality housing scheme, which will enable the Council to meet their housing need – which is important during uncertain economic times."

Noise impact assessment (NIA):

The NIA identifies the key issues / guidance issued in the NPPF and potential noise nuisance arising from adjacent developments to have limited impact upon the amenities of the proposed new dwellings and concludes that such matters can be adequately mitigated against through good design practice.

Flood Risk Assessment (FRA):

The submitted FRA notes that the site is entirely within Flood Zone 1 'Low Probability,' as land being assessed as having a less than 1 in 1000 annual probability of river or sea flooding in any year, as identified on the Environment Agency's indicative flood map. The FRA notes that the site may be at risk of flooding from the existing drainage systems adjacent to the site, and recommends that the proposed ground levels are configured such that any flooding on site is directed away from the proposed building and that any finish floor levels are set 150mm above the average site level to ensure any floodwaters are directed away from the proposed buildings and towards any required attenuation facilities.

Phase 1 Geo-Environment Report:

This report in summary notes that the site remained undeveloped until 1960s when a Council Depot was developed on the eastern part of the site with a depot developed in the southern part in 1970s. Although not identified on the historical plans, it is suggested that the adjacent Refuse Tip / Landfill site extends across the majority of the site. The surrounding area has been heavily developed for residential and commercial properties with associated infrastructure and garages (i.e. vehicle repair/servicing), although the area of the Refuse Tip is now a playing field.

The report concludes that an intrusive investigation will be required to address any likely ground related issues and advises in a summary of likely scope of works to include: Mini

percussive drilling and trial pits; cable percussion boreholes to determine a suitable founding horizon; groundwater monitoring wells installed to allow assessment of the impact of the site on the underlying principal aquifer; and installation of gas monitoring standpipes and monitoring on a minimum of 24 occasions over a minimum 6 month period.

Transport Assessment (TA):

The TA has been submitted taking account of the relationship between the proposed residential and retail application on the adjacent site and in its assessment considers the effect of providing up to 54 dwellings taking access from Hamilton Road upon the locality and road junctions in particular. The report notes that the development is within walking distance of all of the local facilities, schools, library and retail destination properties and the site's location is highly sustainable and accessible by all modes of travel.

The report notes that capacity assessments have been carried out, taking account of the proposed Aldi Food Store development on the adjacent development site, and any combined development effect on the network would create a negligible impact in the 2014 and 2019 assessment years, and with this in mind consider that there are no highways or transportation reasons as to why this development should not be approved.

Statement of Community Involvement:

This report is submitted in conjunction with the adjacent retail application and notes that that pre-application discussions have been held with RMBC and that as part of the advice offered it was determined in line with the Council's 'Statement of Community Involvement,' (SCI) document that prior to submitting the formal planning application for the site, Aldi undertake a detailed programme of community consultation which has subsequently involved:

- Initial local stakeholder (Maltby Town Council) meeting - 06th February January 2014.
- Posting of a newsletter with response card to 1,735 local addresses along with Ward and Parish Councillors.
- Public exhibition displaying the proposals held on 15th January 2014 between 3.00pm and 7.00pm.

The report notes that although some 298 responses were received with only 7 objectors to the scheme, these are all in relation to the proposed retail scheme.

Development Plan Allocation and Policy

The site is allocated for Business purposes on the UDP, the following 'saved' policies and guidance are considered to be of relevance to the determination of this application:

- EC1.1 'Safeguarding existing industrial and Business Areas'
- EC3.2 'Land identified for Business Use'
- EC3.3 'Other Development within Industrial and Business Areas'
- HG4.3 'Windfall Sites'
- HG5 'The Residential Environment'

ENV3.1 'Development and the Environment'
ENV3.7 'Control of Pollution'
ENV4.4 'Contaminated Land'
T6 'Location and Layout of Development'

Other Material Considerations

The Council's minimum Council's Parking Standards (adopted June 2011), recommends for residential developments that 1 or 2 bedroom properties should be provided with 1 parking space per dwelling; 3 or 4 bedroom properties provided with 2 No. parking spaces per dwelling; and flats being provided with 1 parking space per flat plus 50% allocated for visitors.

Planning Practice Guidance (PPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

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

Publicity

The application has been advertised by way of press notice along with the posting of site notices in the locality of the site on Hamilton Road and Strauss Crescent. In addition individual notification letters have been sent to occupiers of adjacent properties. No letters of representation have been received in respect of this application.

Consultations

Streetpride (Transportation and Highways) Unit – Does not raise objection to the location of the proposed new access point onto Hamilton Road, and considers that the information in respect of junction capacity and trip generation and conclusions as set out in the Transportation Assessment are sound. Subject to the imposition of the recommended conditions in respect of - the location and design of the proposed site access being designed in accordance with guidance from South Yorkshire Residential Design Guide; submission of road sections, construction and drainage details for the access point; and methods to achieve sustainable methods of transport, no objections are raised on highway safety grounds.

Streetpride (Rights of Way) – Raises no objections to the proposals as there are no public rights of way affected by the proposals.

South Yorkshire Passenger Transport Executive (SYPTTE) – Comment that the principle of developing this site is supported as it allows easy flow of pedestrian access and permeability of the site. SYPTTE suggests that the developer investigates the feasibility of unlocking the northern section of the site as part of any further reserved matters application, as connecting this site with Strauss Crescent would allow walking distances to Maltby Craggs Schools to be reduced, therefore encouraging local walking trips to school rather than short car journeys.

SYPTTE further notes that the nearest bus stop to the development (Tickhill Road) is currently a bus stop pole without any raised kerbs or tactile paving to assist disabled users. As it is anticipated that site residents will use public transport, SYPTTE suggest a number of improvements are sought through a developer contribution. SYPTTE recommends that bus stop on Tickhill Road (no. 37031017) should be upgraded to a 3 bay shelter with associated kerbing and tactile works. The bus stop will ensure that public transport from the site is promoted through an attractive waiting environment. The bus stop upgrade will provide a sheltered, lit and seated facility which can not only encourage site users but also the wider community.

Neighbourhoods (Environmental Health) Services – Concludes that due to the proximity of the proposed development to residential properties there is potential for disamenity from noise and dust from the demolition of the existing depot and the construction of the residential development, and notes that that matter could be satisfactorily mitigated against through the imposition off an appropriate informative attached to any permission granted.

Neighbourhoods (Contaminated Land) – Comments that it is highly likely that contamination of the soils and groundwater has occurred which has the potential to affect human health. There is also potential for migration of contaminants from off-site sources including a refuse tip. Furthermore, it is possible that the underlying principal limestone aquifer could be affected by contamination. Possible contamination from the above uses on site may include total petroleum hydrocarbons, poly aromatic hydrocarbons, heavy metals, solvents, inorganic elements and asbestos.

Ground gas may also be present in association with potential underlying made ground at the application site and from the former landfill site. It is known that this landfill site accepted domestic, commercial, industrial, sewage sludge and asbestos wastes. These types of waste have the potential to generate landfill gas consisting principally of methane and carbon dioxide gas.

The Coal Authority has confirmed the application site is reported to be within a low risk area for future development and the risk of mines gas is reported to be unlikely.

In conclusion, it is recommended that an intrusive site investigation is required to be undertaken to quantify the presence, depth and concentration of contaminants within the proposed development area. The results of investigations and chemical testing may reveal that remediation works are required at the site. However such a request can be controlled via the imposition of appropriate conditions.

South Yorkshire Mining Advisory Service – Comments that the site is not located within a coal mining referral area and therefore a coal mining risk assessment is not required.

he applicant has provided a phase 1 desk top study report for the site which identifies the presence of an adjacent landfill site. Historical Ordnance Survey information suggests the council depot pre-dates the onset of landfill operations and therefore the land under consideration is unlikely to be underlain by any significant quantity of made ground. Given the industrial nature of previous land use it would be advisable to undertake site investigations to confirm the suitability and the land for the proposed development.

Streetpride (Drainage) – Raises no objections in principle and considers that the recommended conditions can be imposed to ensure that a comprehensive drainage layout for both foul and surface water drainage should be developed, and that in line with the submitted FRA the proposed surface water should be reduced based on the existing flows from the site with a minimum of 30% reduction designed to a 1 in 1 year return storm period.

Environment Agency – Advises that guiding principles on groundwater protection are set out in the EA's Groundwater Protection Policy and Practice, which is intended to be used by anyone interested in groundwater and particularly those proposing an activity which may impact groundwater. Other referrals relate to the management framework for Land Contamination when dealing with land affected by contamination, and the type of information required in order to assess risks to controlled waters from the site under the Guiding Principles for Land Contamination. All of these can be attached as an informative in the event that planning approval was to be forthcoming.

Severn Trent Water – Raise no objections to the proposed development subject the recommended drainage conditions relating to foul and surface water drainage issues.

Streetpride (Ecology Officer) – Raises no objections to the principle of the proposed development on grounds of ecology taking account of the fact that no evidence of bat use was found and the buildings present provide only limited roosting opportunity, which is reducing as the building structures deteriorate. The submitted ecological survey methodology is appropriate and the results are accepted and the requirements for undertaking additional surveys can be imposed as a condition. It is further recommended as national and local planning policy support the delivery of biodiversity gain that the development should demonstrate that an appropriate level of gain can be achieved by the submission of a biodiversity enhancement statement, which can be achieved by an appropriately worded condition.

South Yorkshire Police (Architectural Liaison) – Has no objections in principle to the development.

Neighbourhoods (Urban Design) – Reiterates the Police Architectural Liaison comments above and notes that providing a potential link through to the existing housing estate is beneficial in terms of connections and relationship.

Green Spaces Manager - Confirms that there are no objections / comments from a green spaces perspective to the scheme.

School Admissions, Organisation and SEN Assessment Service – Consider due to the indicative type of dwelling, low pupil yield and the affordable housing sought there is not a requirement in this instance to request a contribution towards new school space provision in Maltby.

Strategic Housing & Investment Service (Affordable Housing) – Comments that the Design & Access statement outlines that the development will meet the Affordable Housing policy requirement of 25% of the units on site to be available for affordable housing, and that this can be secured via the imposition of an appropriate condition.

Appraisal

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

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

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

The main issues to be considered in the determination of this application are as follows:

- Principle of development (including loss of employment land).
- The layout of the development.
- Impact on highway safety.
- Impact on neighbouring amenity.
- Ecology / biodiversity issues.
- Contaminated land issues.
- Drainage/ flooding issues.
- Affordable housing.

Principle of development:

Paragraph 14 to the NPPF notes that: “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

The application site is currently allocated for Business use in the UDP. Taking account of the above, the key policy issue in respect of this application relates to the loss of employment land and Policy EC1.1 ‘Safeguarding existing industrial and Business Areas,’ which notes that: “The Council will support proposals which safeguard the

viability of established industrial and business areas, including those which seek to improve buildings, infrastructure and the environment.” It is noted that in refusing previous applications for residential development upon the adjacent Lantern Engineering site in 2007 the Council was at that time protective over the potential loss of viable employment sites, and this view was subsequently upheld on appeal.

The situation in respect of this site has, however, shifted in policy terms following the previous applications and the Council’s Employment Land Review 2010 where it has now been recognised that re-allocating this land for alternative use(s) may offer potential to meet some of Maltby’s housing needs, bearing in mind the additional pressure constraints to add further development around the edges of Maltby.

The moderate score of this site in the Employment Land Review with a recommendation to consider re-allocation to other uses is further considered to echo the advice contained within paragraph 22 to the NPPF which notes: “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

With the above in mind, as with other cases in the Borough where alternative uses have been sought on employment sites, the Local Planning Authority has sought evidence that the site is no longer suitable or viable for employment use, typically through evidence that the site has been marketed unsuccessfully for around 12 months. This approach has been adopted in the past with both this site and the adjacent Lantern Engineering site where it is understood that both have been marketed individually since the planning appeal inquiry in 2007 and more recently as a joint site with no uptake/interest being shown for a mixed development other than from the current applicants.

Taking account of the overall policy shift and the reasonable marketing undertaken, the further loss of employment land needs to be considered in light of UDP Policy EC3.3 ‘Other Development within Industrial and Business Areas,’ which additionally notes that: “Within the sites allocated for industrial and business use on the Proposals Map, other development will be accepted, 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, where such development can be shown to be ancillary to the primary use of the area, or would provide significant employment.”

Taking the above into account, of material consideration in concluding on this matter is Paragraph 49 of the National Planning Policy Framework which notes that: “...housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

Currently the Council is unable to demonstrate its 5 year housing land supply (also including 20% buffer) of deliverable sites and it is therefore considered that there is an

overriding justification for allowing the development on this site, and the presumption in favour of sustainable development therefore applies in this case.

In addition, the existence of other residential developments to the north and south of the site to accept part of the wider allocated business site for residential use is further considered to justify the proposals. It is further noted that as a brownfield site in an urban area the principle of redevelopment is broadly consistent with the advice in paragraph 17 to the NPPF which notes that: "Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning (amongst others) should:

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas.
- encourage the effective use of land by reusing land that has been previously developed (brownfield land)."

Paragraph 111 to the NPPF which notes that: "Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value."

Taking account of all the above, it is considered that the proposals as submitted does not conflict with the aims and objectives of UDP Policies EC1.1 'Safeguarding existing industrial and Business Areas,' and EC3.3 'Other Development within Industrial and Business Areas,' and is further in accordance with the advice within the NPPF.

The layout of the development:

Policy HG5 'The Residential Environment' states that: "The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone."

The South Yorkshire Residential Design Guide aims to provide a robust urban and highway design guidance. It promotes high quality design and development which is sensitive to the context in which it is located.

The National Planning Practice Guidance notes that: "Good design should:

- ensure that development can deliver a wide range of planning objectives.
- enhance the quality buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being.
- address the need for different uses sympathetically."

With regards to layout considerations, concerns have been expressed to the applicants during the determination of this application in respect of the relationship between the proposed retail store on the adjacent land (in the event this is to be approved in its current form) and the layout of the proposed dwellings that border the site. As the layout plan submitted is purely indicative and is not being considered as a part of this current application, this matter would be considered at the reserved matters stage. It is recommended that an informative is included to recommend that the layout subject of the reserved matters application should allow greater separation distances than those

set out in the South Yorkshire Design Guide in order to ensure that the impact of the adjacent retail unit is minimised.

Transportation Issues:

UDP Policy T6 refers to the Location and Layout of Development and requires that new developments have regard to the desire to reduce travel demand.

Paragraph 32 of the NPPF requires that all development that generates significant amounts of movement should be supported by a Transport Statement or a Transport Assessment. It goes on to require that the opportunities for sustainable transport modes have been taken up, that safe and secure access for everyone can be achieved and that cost effective improvements to the highway network should be undertaken to limit the significant impacts of development.

Paragraph 35 of the NPPF relates more specifically to detailed highway design.

The site is considered to lie within a sustainable location and the South Yorkshire Passenger Transport Executive have confirmed that the site is readily accessible by public transport. The site also lies in close proximity to shops and services. SYPTE have however requested in lieu of the provision of a Travel Master Pass to each dwelling, that the upgrading of an existing bus stop on Tickhill Road would be the better option to secure measure to promote sustainable transport. This can be sought by the imposition of the recommended condition.

In respect of the proposed means of access onto Hamilton Road, the Transportation & Highways Unit raise no objections to the proposed siting of the access point subject to the imposition of the recommended conditions in respect of the proposed site access being designed in accordance with guidance from South Yorkshire Residential Design guide; road sections, constructional and drainage details for the access point; and methods to achieve sustainable methods of transport (which in this instance would include the upgrade of the nearby bus stop).

Residential amenity issues:

The NPPF notes at paragraph 17 that: “Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning (amongst others) should:

- always seek... a good standard of amenity”

The site backs onto the existing residential development (Strauss Close) to the north and taking account of the layout considerations as raised above, any future reserved matters application will need to respect the relevant spacing standards as advocated by the SYRDG.

In terms of potential noise and disturbance issues arising from the proposed store to the south on the future occupiers of the current application site, UDP Policy ENV3.7 ‘Control of Pollution,’ states: “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 co-operate 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.”

The NPPF notes at paragraph 123 that: “Planning decisions should (amongst others) aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.”

The NPPG notes that: “Local Planning Authorities decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur.
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.”

The submitted Noise Impact Assessment NIA identifies the key issues / guidance issued in the UDP and the NPPF and concludes that potential noise nuisance arising from adjacent developments to have limited impact upon the amenities of the proposed new dwellings and advises that such matters can be adequately mitigated against through good design practice as advocated in the SYRDG.

The NIA does not assess the potential impact of the Lantern Engineering operations on future occupiers of the proposed housing and it is recommended that a condition be added that addresses this, though as part of the application site includes part of the Lantern Engineering site (including part buildings) this is a highly unlikely scenario.

With the above in mind it is considered that the proposals generally accord with UDP Policy ENV3.7 ‘Control of Pollution,’ along with the advice in the NPPF and the NPPG.

Ecology / biodiversity issues:

The NPPF advises at paragraph 117 that: “To minimise impacts on biodiversity and geodiversity, planning policies (amongst others) should:

- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.”

In assessing these matters, the Council’s Ecologist advises that no evidence of bat use was found in the existing depot buildings and they at present provide only limited roosting opportunity, which is reducing as the building structures deteriorate. The submitted biodiversity report recommends that a single emergence /activity survey is undertaken and that this can be controlled via the imposition of the recommended condition.

Additionally, as both national and local planning policy supports the delivery of biodiversity gain, it is further recommended that biodiversity enhancement is undertaken with the developer demonstrating through the submission of supporting statements as to how an appropriate level of gain can be achieved. Again, this issue along with the inclusion of a schedule for implementation can be controlled by condition.

In addition to ensure that the avoidance of vegetation removal during the main nesting season (March – July inclusive) this can be sought via the imposition of an appropriately worded informative.

Contaminated land issues:

UDP Policy ENV4.4 ‘Contaminated Land,’ notes that: “Where land that may be contaminated as a result of previous uses, is proposed for development the Council will need to be satisfied that the applicant has:

- (i) undertaken investigations to establish the nature and extent of the contamination and its potential effects on the proposed development and/or the occupants thereof, and
- (ii) provided details of the measures proposed for the removal and/or treatment of the contamination which will not cause or increase pollution in the environment, particularly to watercourses and ground-water resources. Where permission is granted, such measures will be imposed as planning conditions to be implemented prior to commencement of development or within a timescale agreed with the Council.”

The NPPF further notes at paragraph 120 that: “Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

The NPPF further advises at paragraph 121 that; “Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as ...pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.

- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
- adequate site investigation information, prepared by a competent person, is presented.”

In assessing the submitted Phase 1 Geo-Environment Report, the Council's Contaminated Land (Development Officer) comments that it is highly likely that contamination of the soils and groundwater has occurred which has the potential to affect human health. There is also potential for migration of contaminants from off-site sources including a refuse tip. Furthermore, it is possible that the underlying principal limestone aquifer could be affected by contamination.

It is recommended that an intrusive site investigation is required to be undertaken to quantify the presence, depth and concentration of contaminants within the proposed development area to which the results of investigations and chemical testing may reveal that remediation works are required at the site. Such a request can be controlled via the imposition of appropriate conditions and informatives.

Drainage matters:

UDP Policy ENV3.2 'Minimising the Impact of Development,' notes that: "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..."

Although the site lies outside the identified flood zone, the applicants have submitted a Flood Risk Assessment (FRA) with this and the corresponding retail application. The FRA has assessed the site as "...having a less than 1 in 1000 annual probability of river or sea flooding in any year, as identified on the Environment Agency's indicative flood map." It further notes that the site may be at risk of flooding from the existing drainage systems adjacent to the site, and recommends that the proposed ground levels are configured such that any flooding on site is directed away from the proposed building and that any finish floor levels are set 150mm above the average site level to ensure any floodwaters are directed away from the proposed buildings and towards any required attenuation facilities. The finished floor levels are a matter addressed under Building Regulations.

The applicant has been asked to consider the use of Sustainable Urban Drainage Systems however this has been discounted at this point in time citing difficulties due to the previous uses of the land (and therefore contamination issues), although better ground attenuation could be achieved in the form of flow control / storage tanks (or similar), and this will result in the reduction of existing surface water flows by 30% (based on a 1 in 1 year return storm period for the existing surface water sewer serving the existing site).

In line with the advice received from the Council's Drainage Engineer, Severn Trent Water and the Environment Agency it is considered that these matters can be controlled via the imposition of the recommended conditions and informatives and as such compliance with UDP Policy ENV3.2 'Minimising the Impact of Development,' along with the guidance contained within the NPPF is achieved.

Affordable Housing:

In regard to affordable housing provision, paragraph 50 of the NPPF states that: "...where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time."

The Council's Interim Planning Statement (IPS) sets out the Council's requirement for Affordable Housing Provision. A Strategic Housing Market Assessment has been undertaken to establish the level of need for affordable housing in the Borough in accordance with national policy and the work carried out locally to assess need concluded that the following policy will be applied:

"For planning applications for 15 or more houses or for sites of 0.5 hectares or more, no less than 25% of all dwellings shall be provided on site, as affordable units, 14% of which to be available as social rented housing and 11% as affordable intermediate tenures."

The applicant has identified through the submitted Planning and Affordable Housing Statement that the full proportion i.e. 25% of affordable housing provision is to be provided upon this site. In assessing this provision, the Council's Strategic Housing & Investment Services notes that, in tenure terms, shared ownership would be difficult to sell in this area so they should all be made available for rent. The most likely product that a Housing Association would use would be "affordable rent" and such provision can be secured by condition.

Conclusion

In conclusion, it is considered that the loss of employment land has been justified in this case by the material considerations and that the re-development of this land would contribute to a 5 year supply of housing for the Borough with a full complement of affordable housing to serve the needs of Maltby.

This is a purely outline planning application with only the principle of the development being established along with partial means of access onto Hamilton Road. It has been demonstrated that the site is within a sustainable location and that an acceptable access can be provided into the site to serve such a residential development.

Issues such as drainage / flooding, biodiversity and land contamination matters can be suitably addressed and mitigated through the imposition of the recommended conditions and it is not considered that the scheme as submitted would adversely affect the amenities of adjacent dwellings, and neither would it be impacted upon by external noise related issues.

Overall the scheme is considered to be in accordance with relevant UDP Policies and the general guidance within the NPPF and the recently issued PPG and it is recommended that planning permission be granted subject to the recommended conditions.

Conditions

General

01

- a. Application for approval of reserved matters must be made within three years of the date of this permission.
- b. The development hereby approved must be begun not later than whichever is the later of the following dates:
 - (i). The expiration of five years from the date of this permission; OR
 - (ii) The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

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

02

Before the commencement of the development, details of the layout, scale, appearance, internal access roads and landscaping of the site (hereinafter called the reserved matters,) shall be submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason

No details of the matters referred to having been submitted.

03

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan.

Reason

To define the permission and for the avoidance of doubt.

Affordable Housing:

04

The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the NPPF (or any future guidance that replaces it) and in accordance with the Council's Interim Planning Statement for Affordable Housing.

The scheme shall include:

1. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% of housing units;
2. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

3. the arrangements for the transfer of the affordable housing to a Registered Provider or the management of the affordable housing if no Registered Provider involved;
4. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
5. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason

In the interests of achieving a balanced mix of housing types and tenures and in accordance with the Interim Planning Statement (2008) and the National Planning Policy Framework.

Drainage

05

No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works, discharge points and off-site works, have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason

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'.

06

No development shall take place until details showing how surface water run off will be reduced by 30% from that of the existing site have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason

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'.

Highways

07

Prior to the commencement of the development hereby approved, detailed road sections, constructional and drainage details in relation to the proposed access point onto Hamilton Road shall be submitted to approved in writing by the Local Planning Authority, and the approved details shall be implemented before the development is completed.

Reason

No details having been submitted they are reserved for approval.

08

The application for the approval of reserved matters for the internal access arrangements and layout details under Condition 2 shall include on site cycle and car parking provision in accordance with the Council's adopted minimum Parking Standards (June 2011) and highway designs in accordance with guidance from South Yorkshire Residential Design Guide and Manual for Streets.

Reason

To define the permission and for the avoidance of doubt.

09

Prior to the first occupation of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

10

Prior to the commencement of the development hereby approved, details of the proposed upgrading of Tickhill Road bus stop (no. 37031017) shall be submitted to and agreed in writing with the Local Planning Authority, and the approved details shall thereafter be implemented and maintained in accordance with a timescale to be agreed by the Local Planning Authority and shall be completed in advance of the occupation of the first dwelling.

Reason

In order to promote sustainable transport choices.

11

When the proposed access has been brought into use, the existing vehicular access to Hamilton Road shall be permanently closed and the footway / kerblin reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason

In the interest of highway safety.

Environmental:

12

Prior to the commencement of the development hereby approved, an intrusive investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 – 4).

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13

Subject to the findings of Condition 12, a Remediation Method Statement shall be provided and approved by this Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14

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

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15

Ground gas monitoring will be required to determine the ground gassing regime at low and falling atmospheric pressure conditions. This will enable a current gas risk assessment to be undertaken, to determine if gas protection measures are required for the proposed development. If gas protection measures are required for the site, these will need to be agreed in writing by the Local Planning Authority prior to development commencing, and approved details implemented before the development is brought into use.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16

Prior to development if subsoil's / topsoil's are required to be imported to site for remedial works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17

Prior to the commencement of development a noise impact assessment shall be carried out, where necessary, to assess the impact of the adjoining Lantern Engineering commercial site on the future occupiers of the residential development approved under this permission. Details of any mitigation measures required shall be submitted to and approved by the Local Planning Authority and any approved mitigation measures shall be implemented prior to the occupation of each dwelling.

Reason

In the interests of the amenities of the future occupiers of the dwellings.

Ecology / Biodiversity / Landscaping:

18

Prior to the commencement of the development hereby approved, a bat activity survey shall be undertaken in accordance with best practice standards and shall be submitted to and approved by the Local Planning Authority. Any recommendations arising shall thereafter be implemented in accordance with the agreed report before the development is first brought into use.

Reason

To reflect the advice of the NPPF and protect the ecological interest of the site.

19

Prior to the commencement of development hereby approved, a biodiversity enhancement statement, including a schedule for its implementation, shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed statement before the development is first occupied.

Reason

To reflect the advice of the NPPF and protect the ecological interest of the site.

20

The application(s) for the approval of reserved matters for landscaping details under Condition 2 shall include a detailed landscape scheme. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings 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.

Reason

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'.

21

Prior to the commencement of development a landscape management plan, including long term design objectives, management responsibilities / implementation timescales and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall thereafter be implemented in accordance with the approved details.

Reason

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'.

Informatives

01

The application for the approval of reserved matters for the layout details under condition 2, shall take account of the siting and design of the retail scheme approved under LPA ref RB2014/0318 and the relationship of this development with the southern site boundary to the application site. The proposed layout shall allow for greater separation distance than those set out under guidance from South Yorkshire Residential Design guide in order to ensure that the amenities of the proposed occupiers are taken into account.

02

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.

03

INF 25 Protected species

Wildlife Legislation

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

04

The applicants attention is drawn to the fact that in discharging the requirements of Condition 12 reference to Section 8 - Further Recommendations for Site Investigation Works on page 15 of the Phase I Geo-Environmental Assessment Report must be taken into consideration.

05

The applicants further attention is drawn to the fact that in discharging the requirements of Condition 15 as a minimum, gas monitoring should be undertaken on 12 occasions over a period of 6 months.

06

The applicants attention is additoinally drawn to the fact that the approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Authority must be given two weeks written notification of commencement of the remediation scheme works.

07

The South Yorkshire Police Architectural Liasion Officer notes that the greater the mix of dwellings will enable potential for homes to be occupied throughout the day. This gives greater opportunity for natural surveillance and community interaction. It is further advised that any reserved matters application will be required to take account of a number of issues: Blank gable ends should be avoided, including windows in gable walls will add to the natural surveillance of the area; all rear boundaries to be at least 1.8m high and lockable; all doors and windows should be to PAS 24:2012 the required standards for Secured by Design.

POSITIVE AND PROACTIVE STATEMENT

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

To the Chairman and Members of the
PLANNING REGULATORY BOARD

Date 5th June 2014

Report of the Director of Planning and Regeneration Service

<u>ITEM NO.</u>	<u>SUBJECT</u>
1 Page No. 90	Proposed Tree Preservation Order No 1. 2014 – 1 Grove Bank, Moorgate Grove, Rotherham
2	File Ref: RB2014/0503
Page No. 94	Courtesy Consultation for the Erection of a non-food retail unit (Class A1) with ancillary customer restaurant and bistro, and provision of associated car parking, landscaping works, servicing and access and highway works (additional information regarding transport and air quality in respect of revised junction improvements at J34 of the M1), site off Betafence Wire Factory Lock House Road Sheffield S9 2RN
3	File Ref: RB2013/1379
Page No. 97	1. Appeal Decision – Dismissed Appeal against refusal of planning permission for the demolition of extension and outbuilding to public house and erection of single storey extension and 3 No. dwellings at The Black Lion, New Road, Firbeck 2. Award of Costs in respect of the above appeal - Dismissed

ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE
5TH JUNE 2014

Item 1

Proposed Tree Preservation Order No 1. 2014 – 1 Grove Bank, Moorgate Grove, Rotherham



RECOMMENDATION:

That Members confirm the serving of Tree Preservation Order No. 1 (2014) with regard to 1 Grove Bank, Moorgate Grove, Rotherham

Background

An application for six weeks notice of intent to fell a tree within Moorgate Conservation Area was submitted in respect of the site on 11 December 2013. In considering the application, the local authority determined the tree met the criteria for including within a new preservation order and insufficient evidence had been provided to justify its loss.. As a result on 14 January 2014 a Tree Preservation Order was made. The Local Planning Authority then have 6 months in which to confirm the order.

The tree is a mature Beech (*Fagus sylvatica*), with an approximate height of 18m and trunk diameter of 74cm. Outwardly it appears in reasonably good condition with reasonably good future prospects. It has a single main stem and average branch spread of approximately 6.5m in each direction. Part of the branch framework overhangs the single storey outbuilding at Grove Cottage with one small diameter branch overhanging the roof of the main dwelling. The lowest overhanging branches are approximately 5m above ground level with the majority of the lowest branches at 6m or more above ground level.

The site levels vary at the property with the garden area adjacent to part of the west and north approximately 1.5m higher than the garden to the south and surrounding the dwelling. The centre of the main stem is 1.25m from the 1.8m high brick boundary wall between Grove Cottage and 1 Grove Bank and 2m from the corner of the single storey outbuilding at Grove Cottage.

Objections

Letters of representation have been received from Mr and Mrs James, Derick and Sheila Quairney and Mr and Mrs T Cook dated, 21 and 22 February 2014, respectively objecting to the above Order. In addition one letter of support for the tree to be protected has been received from a local resident of Moorgate Road.

The main parts of the objections appear to be as follows.

- Tempo evaluation score - Public visibility
- Danger and nuisance to neighbour at Grove Cottage and shading.
- Legal nuisance to owner (i.e. damage, injury or loss of reasonable use and enjoyment of property)
- Branches conflict with phone lines
- Nearby trees already protected, no need to protect this one

Tempo Evaluation score – section c) Relative public visibility

Mr and Mrs James believe the tree should receive a score of 2 rather than 3 and this would reduce the cumulative score to 8 indicating the tree does not merit inclusion in a new Order.

However, it appears the scoring system may not have been fully understood. Even if the score was reduced by 1 the tree would still achieve a sub-total of 7, qualifying it for the second part of the evaluation. The overall score would be 13 indicating a Tree Preservation Order is defensible. The tree is visible from Heather Close and between the houses on Moorgate Road and Moorgate Grove and contributes to overall amenity within the local conservation Area.

Danger and nuisance to neighbour at Grove Cottage

The local planning authority are not aware of any evidence being submitted to indicate there is any damage to the boundary wall or property to substantiate the concerns that the tree is a danger to local residents. If the Order is confirmed, any evidence provided in the future to indicate the removal of the tree is unavoidable for these reasons may be considered at that time.

Some of the difficulties of falling branches may be due to the lack of maintenance in the past. Any risks of harm or damage may be minimised by arranging for the tree to be regularly inspected to ensure it is free of any significant defects. In addition, the pruning of dead branches is exempt from the normal application procedures.

The extent of any tree sap and beech nuts will vary from year to year depending on aphid populations and whether it is a good year for seed production or not. Significant difficulties of "honeydew", the sap secreted by aphids feeding on tree leaves, are more commonly associated with Sycamore and Lime, rather than Beech. In addition, nobody can control where leaves will fall or where birds will sit and deposit droppings. It is appreciated these difficulties may cause some inconvenience but removal of the seasonal deposits, including leaves and fruits is generally regarded as routine household maintenance, common to all areas where there are trees.

Nuisance to owner

Legal advice has been sought, confirming that whilst a tree may affect the owners own property, this is not recognised as a nuisance, for the purposes of this legislation. The tree is positioned in the western corner of the garden far enough away not to dominate the rear garden area. However, due to its height and position on higher ground to the rear of the dwelling it will no doubt cause some shading to the owners and the residents of 2 Grove Bank. Its shading pattern through the main part of the day shows it will block sunlight to the rear garden, particularly towards the end of the day but sunlight should reach the dwelling. In addition, any shading will be seasonal and at its worst during the summer months when it is in full leaf.

Branches in contact with telephone wires.

The tree is in close proximity to a telegraph pole and there are difficulties of branch encroachment and physical contact with the wires. However, these difficulties can be avoided by careful pruning to provide adequate space between the branches and wires.

Other protected trees in the area - No need to protect this tree

The property is within the Moorgate Conservation Area which extends to cover most of the residential properties on Moorgate Grove and Whiston Grove. Trees form an essential part of the character of the Conservation Area providing valuable and important amenity and associated benefits. The retention of those in reasonable to good condition with reasonably good future prospects is therefore desirable whilst their condition allows.

It is accepted that nearby trees are protected by existing Tree Preservation Orders including trees at Grove Cottage. Whilst the tree concerned may not be the largest or one of the more dominant trees it contributes to overall amenity in the Conservation Area. In dealing with these matters the government advice is that local authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Therefore, the removal of trees should only be accepted if they are in poor condition with limited future prospects or they are causing severe difficulties that cannot be resolved by careful pruning.

Conclusions

The evaluation shows the tree concerned meets the criteria for inclusion in a new Tree Preservation Order

No evidence has been provided to substantiate the fears and concerns from the objectors that the tree is involved in any difficulties of damage to property and / or it is unsafe.

Difficulties with the various deposits from the tree can be an inconvenience, but are common with trees in towns and villages and can be managed by during the normal course of household maintenance. These difficulties are not so excessive that felling would be justified on their account.

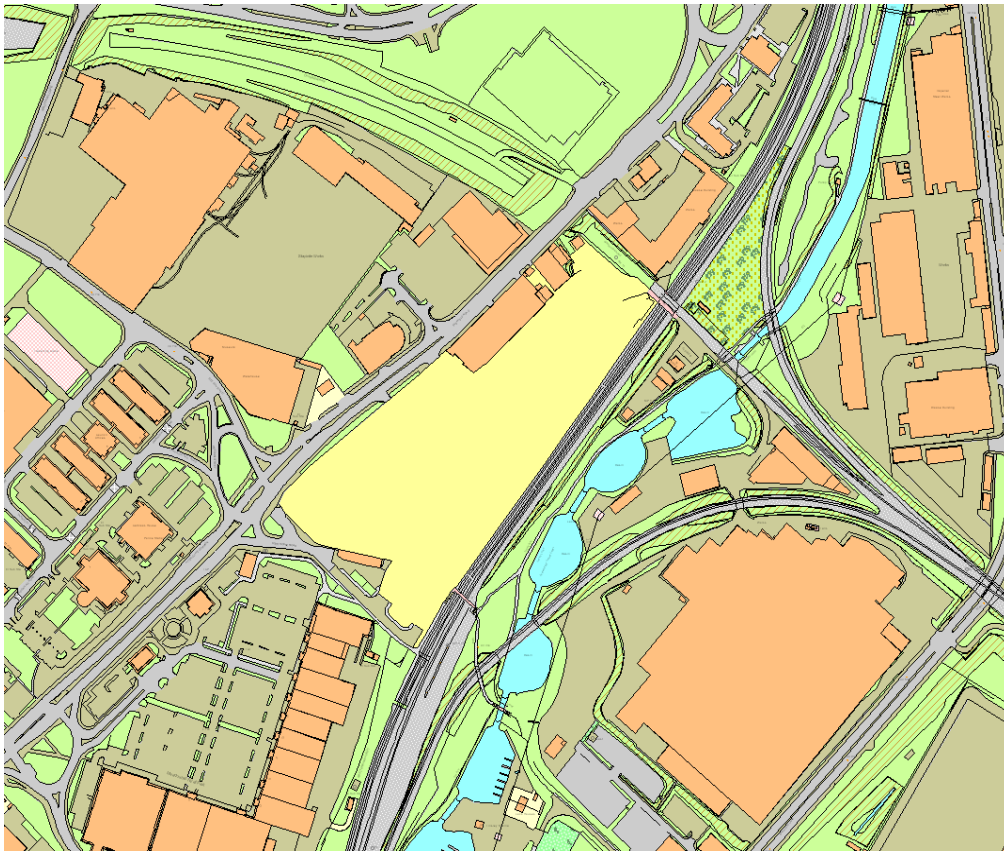
The garden is of sufficient size to accommodate the tree, without causing undue dominance or inconvenience to the enjoyment of the garden.

The tree therefore contributes to overall amenity and its retention will preserve the character of the Conservation Area and it is therefore recommended that the Tree Preservation Order be confirmed.

Item 2

RB2014/0503

Courtesy Consultation for the Erection of a non-food retail unit (Class A1) with ancillary customer restaurant and bistro, and provision of associated car parking, landscaping works, servicing and access and highway works (additional information regarding transport and air quality in respect of revised junction improvements at J34 of the M1), site off Betafence Wire Factory Lock House Road Sheffield S9 2RN



Recommendation:

That Sheffield City Council are informed that the Council has no objections to the proposed development, including the additional information subject to –

- A condition be attached to any permission to ensure that the development is occupied by one single operator and is not subdivided into smaller units at any time.
- The submission/approval of a travel plan
- That a condition/informative be attached to any permission requiring IKEA not to promote the use of Junction 33 of the M1 in their advertising.

Background

Rotherham MBC has been consulted on the above planning application submitted to Sheffield City Council. This is a 'courtesy' consultation as required due to the close proximity of Rotherham Borough to the application site which is across the boundary in Sheffield. RMBC have previously commented on this scheme following Members accepting the officers recommendations on 25th July 2013, but additional information has been submitted and Sheffield have re-consulted on the application

Site Description & Location

This site is situated within Sheffield, close to Meadowhall and within the Don Valley corridor linking Sheffield and Rotherham via Templeborough. The application site comprises a rectangular parcel of previously developed land which extends to approximately 5.4ha, located in between the A6178 (Sheffield Road) and the Sheffield Super Tram line. The site now includes a substantial area of hardstanding following the demolition of the former Betafence works. A disused railway line linking to Tinsley Yard forms the northern boundary of the site with Locke House Road and Meadowhall Retail Park forming the southern boundary to the site.

The site lies approximately 5km to the north east of Sheffield City Centre, and is close to, but separate from, the Meadowhall Shopping Centre.

Proposal

Full planning permission is sought to develop a new IKEA store, comprising 37,261 sqm (gross) floorspace, together with access, servicing, car parking, landscaping as well as highway improvements.

This application is still the same as was submitted previously but additional information has been submitted in relation to the traffic issues and air quality.

Consultations

Streetpride (Transportation and Highways): As before, the Council's Transportation Unit have no major objections to the proposal, or the additional information submitted. In traffic terms the development is unlikely to have a major impact on Rotherham. It is however considered appropriate that no signs should be erected directing traffic to the development through Junction 33 of the M1 and that a Travel Plan is submitted for approval.

Neighbourhoods (Air Quality): No objections have been raised as the additional information submitted regarding air quality will be assessed by Sheffield City Council, and if appropriate, they will ensure that any mitigation measures are implemented and enforced.

Appraisal

The issues to be addressed as a result of the additional information are regarding transportation matters and the impact on air quality.

Transportation Issues

The additional information included further sensitivity testing of the implications of the scheme in the vicinity of the M1 J34 (south). The assessment has been undertaken of the opening year 2016, and 2023 future year assessment, and concludes that the proposed scheme and mitigation measures, along with proposed improvements by the Highways Agency would result in a nil detriment to the highway operation, and in fact a minor net benefit.

Taking into account the additional information, it is still considered that the proposal is unlikely to have a major impact on Rotherham and the Highways Agency have accepted that the M1 has sufficient capacity for the development. Therefore, as previously concluded, subject to there being no signs directing traffic to the development through Junction 33 of the M1 and the submission/approval of a Travel Plan the proposal is considered to be acceptable from a transportation aspect.

Air Quality

The additional information includes a qualitative assessment of the air quality implications of the sensitivity testing that has been carried out. The air quality assessment has also been based on the opening year 2016, and 2023 future year assessment. The additional information concludes that taking into account the proposed development with mitigation measures, along with the proposed Highway Agency improvements there will be no material difference in the assessment than the original outcome. Therefore the residual impact of the operation of the IKEA remain unchanged from that presented in the original submission.

The additional air quality information submitted will be thoroughly assessed by Sheffield City Councils Environmental Health Officers, and if appropriate they will ensure that all mitigation measures are implemented and enforced on site, which will mitigate any impact on Sheffield and Rotherham. As such no objections have been raised by this Council's Environmental Health Department.

Conclusion

Having regard to the above and the additional information submitted, it is concluded that the development will not have any adverse impacts on Rotherham in transportation terms, provided that traffic is not directed to the site via Junction 33 of the M1; that the applicant submits a Travel Plan. Additionally, the air quality matters are to be addressed by Sheffield City Council Environmental Health Officers, who will require mitigation, if appropriate. It is therefore recommended that Sheffield City Council is

advised the Rotherham has no objections to the proposed development subject to this.

Item 3

RB2013/1379

1. Appeal Decision – Dismissed

Appeal against refusal of planning permission for the demolition of extension and outbuilding to public house and erection of single storey extension and 3 No. dwellings at The Black Lion, New Road, Firbeck

2. Award of Costs in respect of the above appeal - Dismissed



Recommendation:

That the decision to dismiss the appeal and to dismiss the award for costs be noted.

Background

In November 2013 an application for planning permission for the partial demolition of the Black Lion public house and the erection of a single storey extension and 3 No. dwellings (RB2013/1379) was refused by Members at Planning Board.

Inspector's Decision

The Inspector noted that the main issues were as follows:

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
- Whether any 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 noted that the Black Lion is an established public house located in the centre of the village of Firbeck. The original pub was extended in the late 1990's with the addition of a large kitchen and function suite which provides a large extended dining area. The building is adjoined by a large car park which can accommodate a large number of cars and an adjacent lawn with a patio which provides external seating.

Whether the proposal is Inappropriate Development

The Inspector noted that the Council have referred to Policy ENV1 'Green Belts' which allows for limited infilling within villages in the Green Belt. The Inspector also noted the Interim Supplementary Planning Guidance 'Green Belt' discusses infill development within villages within the Green Belt, which Firbeck is. The Inspector concluded that the nature of the scheme along with the extent of the land involved would go beyond what could reasonably be described as limited infilling.

Notwithstanding this, the proposal would include the removal of a substantial portion of the existing building and involve redevelopment of part of the site currently used for parking. The Inspector notes that the NPPF makes provision for the partial redevelopment of previously developed sites in the Green Belt, including those in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it.

The Inspector noted that the Council estimate the size of the existing structures to be demolished to measure around 1,350 cubic metres, with the volume of the proposed dwellings and extension having a volume of around 2,040 cubic metres. The Inspector considered that from the submitted plans the proposal would represent a notable increase in the amount of built development on the site.

The Inspector considered that the proposed dwellings would be seen in the context of adjoining residential property and the scale and form of the proposed development would be commensurate with other properties within the residential streetscene. Nevertheless, the Inspector considered that the proposal would significantly increase the amount of built form present and would also increase the extent to which it covers the site. In particular towards the rear of the site, it would introduce buildings where they are currently absent. The Inspector concluded that this would have a greater impact on openness than the existing development.

The Inspector noted that the development would be contained within the built envelope of the village, and uses land which forms part of an existing development. However, the amount of built form and how it would be distributed across the site would have a greater impact upon openness. As such, it would result in inappropriate development as outlined in paragraph 89 of the NPPF. The Inspector concluded that such development is, by definition, harmful to the Green Belt and substantial weight must be attached to that harm.

Are there any very special circumstances to justify the inappropriate development.

The Inspector noted that the proposal includes various marketing and financial information in support of the application. The appellant's intention is to raise capital from the proposed development to enable the continued operation of the existing pub. The Inspector noted that the proposal carries significant support within the local community, particularly in relation to the appellant's intention to continue to run the public house. The Inspector noted that the remaining bar and lounge area would still represent a reasonably large commercial premises and do not therefore accept the Council's view that the proposal would jeopardise the viability of the future pub. Nevertheless, the Inspector considered that they had not been provided with any convincing evidence to demonstrate how any capital raised would be directly linked to the future operation of the remaining business. Therefore, whilst the Inspector stated that she had sympathy with the appellant's personal circumstances, she could give this matter only limited weight.

The Inspector noted that the appellant has commented that an extant consent, dating from 1988 exists for housing at Yew Tree House, and that the Council failed to take this into account in assessing the proposal. Had they done so, it is contended that the dwelling at Plot 3, could be considered as limited infill development. The lawful status of such development at Yew Tree House is not clear and is not, in any case, the subject of this appeal. The Inspector stated that based on the submission before her, she had no substantive evidence to indicate that there is significant probability that, if lawful, it would be likely to be implemented. This limits the weight to which she could attach to the matter.

The Inspector noted the matter of housing land supply in the Borough and that there is not a 5 year supply of housing sites demonstrated. She was mindful

that although the provision of three additional dwellings would make only a limited contribution towards housing supply in the Borough, given the importance of meeting housing need expressed in the NPPF this must carry significant weight.

However, together these matters would not clearly outweigh the substantial harm to the Green Belt by way of inappropriateness which would arise as a result of the proposal. Very special circumstances therefore do not exist and the proposal is contrary to Green Belt policy contained within the NPPF.

Conclusion

The Inspector concluded that the proposal would have a greater impact on openness than the existing development on the site. As the proposal fails to preserve openness it would also in the case of a partial redevelopment of a previously developed site be inappropriate development. The NPPF establishes that Green Belt harm should be given substantial weight and the matter of housing land supply significant weight. In this instance the lack of a 5 year housing supply does not override the harm caused to the Green Belt.

Decision on Costs

The Inspector noted the appellant's application for an award of costs relies to a substantial extent on the view that the Council failed to take account a material consideration in the determination of the appeal. This relates to an historic consent on adjoining land at Yew Tree House, which dates from 1988. It is the Appellant's view that, if implemented, the site would be effectively enclosed and plot 3 would be an infill site in its own right. It is alleged that the Council failed to take proper account of this in determining the application.

The Council have advised that they have no evidence to support the appellant's claim that the adjoining permission is extant. Furthermore, the original application did not refer to this matter, although the Inspector understands that the issue was raised verbally prior to the application being considered by Planning Committee. No compelling evidence that any such consent was extant was submitted as part of the proposal, nor any substantive indication of the likelihood of its redevelopment if such a development were lawful.

The Inspector went on to note that whatever the merits of the adjoining permission, for the reasons outlined in her decision, these would not, in any case, justify a grant of permission in relation to the current proposal. Therefore the Inspector concluded that she was satisfied that the reasoning the Council applied to the decision before her was founded on sound planning grounds and that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs was therefore not justified.