

# ROTHERHAM METROPOLITAN BOROUGH COUNCIL

## PLANNING BOARD

Thursday, 11 December 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. Declarations of Interest (Page 1)  
*(A form is attached and spares will be available at the meeting)*
4. Minutes of the previous meeting held on 20th November 2014 (herewith)  
(Pages 2 - 6)
5. Deferments/Site Visits (information attached) (Pages 7 - 8)
6. Development Proposals (report herewith) (Pages 9 - 71)
7. Updates
8. Date of next meeting - Thursday 8th January, 2015

**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  
20th November, 2014**

Present:- Councillor Atkin (in the Chair); Councillors Godfrey, N. Hamilton, Kaye, Middleton, Pitchley, Roche, Roddison, Rushforth, Turner, Tweed, Vines, Wallis and Whysall.

Apologies for absence were received from Councillor Astbury.

**T46.       DECLARATIONS OF INTEREST**

There were no Declarations of Interest made at the meeting.

**T47.       MINUTES OF THE PREVIOUS MEETING**

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday 30<sup>th</sup> October, 2014, be approved as a correct record for signature by the Chairman.

**T48.       DEFERMENTS/SITE VISITS**

There were no site visits nor deferrals recommended.

**T49.       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.

(2) That application RB2014/1149 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

(3) That application RB2014/1300 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report and subject to the following amended conditions:-

Condition 2 to be amended to include the following additional approved plans:

A042756-27-C-110  
A042756-27-C-111  
A042756-27-C-112  
A042756-27-C-113  
A042756-27-C-114  
A042756-27-C-115  
A042756-27-C-116  
A042756-27-C-117  
A042756-27-CSK100

Drainage Calculations Waverley Plots 1e and 1f  
Feature Building Second Floor (3627/PD/04)  
Preliminary Longitudinal Road Sections (4174-C-D2-01 Rev A)

In addition to this conditions 9 & 10 should be deleted and replaced with a new condition 9:

09

The development shall be constructed in accordance with the drainage details submitted and approved by the Local Planning Authority.

Reason

In order that the development can be properly drained.

The remainder of the conditions to be re-numbered

(4) That, given the change in membership of the Planning Board since the Masterplan had been agreed, arrangements be made for a site visit to the Waverley development followed by a workshop to enable Members to be fully informed of the vision for the development.

**T50. APPEAL DECISION - ERECTION OF 9 NO. DETACHED DWELLINGS WITH ASSOCIATED GARAGES AT LAND OFF GRANGE FARM DRIVE, ASTON (RB2013/0696)**

Further to Minute No. 52 of the meeting of the Planning Board held on 31st October, 2013, consideration was given to a report of the Director of Planning and Regeneration with regard to the refusal of planning permission for the erection of 9 No. detached dwellings with associated garages at land off Grange Farm Drive, Aston.

The Inspector dealing with the appeal concluded that the proposal would have a positive effect on the provision of high quality open space. Whilst the overall quantity of open space on the site would be reduced, the quality of the open space across the estate would be improved significantly. The proposal would comply with Policy ENV5.2 of the Unitary Development Plan and with the Green Space Strategy.

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

(1) The development hereby permitted shall begin not later than three years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans: BM-SLD-01, BM-SL-01, BM-LL-03, Matlock house type M-FP-01 Floor Plans and separate Elevations, W House type floor plans and elevations W-PL-01, Ashbourne type floor plans and separate elevations A-FP-01.

(3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

(4) No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any offsite work, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

- A permeable surface and associated water retention/collection drainage; or
- 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 working order.

(6) No development shall take place until road sections, constructional and drainage details have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and implemented before the development is completed.

(7) No development shall take place until a scheme detailing how the use of sustainable/public transport by the residents of the proposed development will be encouraged has been submitted to and approved in writing by the local planning authority. The scheme shall include a timescale for implementation and the scheme shall be carried out in accordance with the approved details.

(8) No development shall take place until a revised landscape scheme has been submitted. This scheme shall include:

- A planting plan and schedule detailing the proposed species, siting, planting distances, quality and size specification.
- 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.
- A timetable for implementation

The scheme shall be carried out in accordance with the approved details.

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

(10) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas within the wider development, including those areas as shown on the coloured plan BM-LP-01 Rev B as Areas 'A', 'B' and 'C' submitted at the Hearing on 5 September 2014, other than small, privately owned domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the development. The landscape management plan shall be carried out in accordance with the approved details.

(11) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

The Inspector also noted the appellant's application for an award of costs. The Inspector concluded that it was clear from the evidence that the draft Statement of Common Ground (SoCG) had been submitted to the Council well in advance of the hearing date and that the final SoCG was only released a few days prior to the hearing. The Council considered that the statement was being refined collaboratively and that their own experience was that SoCGs were only normally agreed close to the date of the hearing. However, Rule 6A of The Town and Country Planning (Hearings Procedure) (England) Rules 2000 (as amended) stated that the local planning authority and the appellant shall together prepare an agreed SoCG and ensure that it was submitted within 5 weeks of the start date. The SoCG was therefore late and, from the evidence provided, this was due to the Council's internal delays. The Inspector considered this to be unreasonable behaviour.

However, he noted that, whilst there were differences between the draft SoCG and the final signed SoCG, they were in line with what could be expected given the reason for refusal and the Council's appeal statement. He also noted that the applicant did not claim that the late agreement of the SoCG had led to additional costs on their part. He considered, therefore, that the Council's unreasonable behaviour on this matter had not led to unnecessary or wasted expense in the appeal process.

In conclusion, whilst the Inspector had found an example of procedural unreasonable behaviour, he did not consider that it had demonstrably resulted in unnecessary or waste expense as described in the national Planning Practice Guidance. He had not found evidence of substantive unreasonable behaviour and the claim for costs was dismissed.

Resolved:- That the decision to uphold the appeal, with attached conditions, and to dismiss the award for costs be noted.

## **T51. UPDATES**

(1) Arrangements had been made for a training session to be held for Planning Board Members (including substitute Members) on Thursday, 27<sup>th</sup> November, 2014, 10.00 a.m.-1.00 p.m. The training would be facilitated by the Planning Advisory Service and focus on "justified planning decisions and appeals".

(2) An appeal against the refusal of planning permission for alterations to the front elevation and improvement to parking area at the Cranworth Hotel, Fitzwilliam Road, Eastwood for Punch Taverns (RB2014/0915) had been submitted.

(3) Consideration was currently being given to an application at Maltby Colliery for the retrospective importation of mining run off material and ongoing importation for potentially 2.5 years from application submission. There had been a high volume of representations received from residents and a formal request for a site visit has previously been sought.

The main issues arising as part of the determination of the current application from a Planning point of view included health and safety issues (noise and dust) along with associated traffic and vehicle movements. However, from a visual perspective there was not a lot that could be viewed of the scheme from both internal and external viewpoints.

Resolved:- That a site visit be not made.

**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  
12 DECEMBER 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.

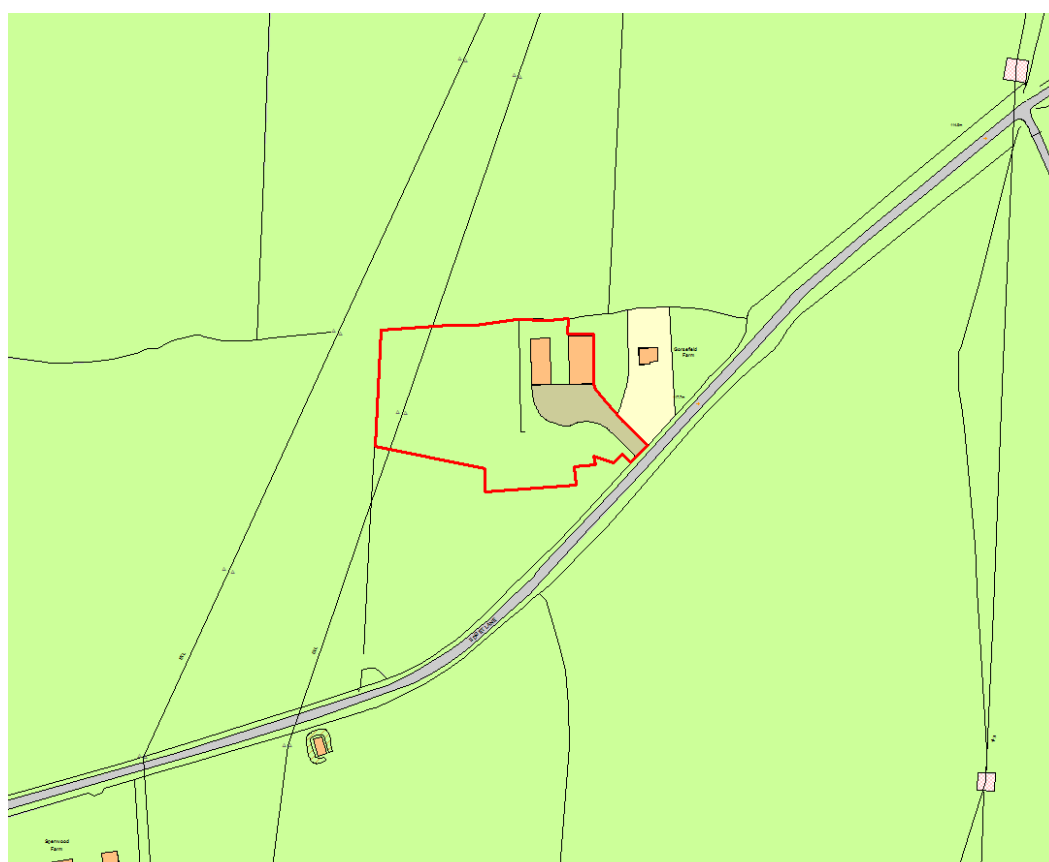
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<p><b>RB2012/1707</b> Use of land and buildings for commercial composting facility and formation of storage lagoon at Gorsefield Farm, Lidget Lane, Bramley for Mr. Jones.</p>	<p>Page 10</p>
<p><b>RB2014/0581</b> Retrospective application for importation of 346,000 tonnes of Mine Runoff Fines (MRF) and additional importation of up to 275,000 tonnes of MRF per annum over a 2.5 year period at Maltby Colliery, Tickhill Road, Maltby for Maltby Colliery Ltd.</p>	<p>Page 30</p>
<p><b>RB2014/1025</b> Demolition of existing offices &amp; workshop and erection of 2 No. detached dwellinghouses and associated detached garages at Winthrop Park, Second Lane, Wickersley for Second Nature Life Support.</p>	<p>Page 45</p>
<p><b>RB2014/1071</b> Erection of 2 No. industrial buildings (use classes B1(b), B1(c), B2 and B8) at land at Campbell Way, Dinnington for E. V. Waddington Ltd.</p>	<p>Page 60</p>

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 12 DECEMBER 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.

<b>Application Number</b>	RB2012/1707
<b>Proposal and Location</b>	Use of land and buildings for commercial composting facility and formation of storage lagoon at Gorsefield Farm, Lidget Lane, Bramley S65 4LY for Mr Jones
<b>Recommendation</b>	Grant subject to conditions



**Site Description & Location**

The application site comprises of approximately 2 hectares of lies within open undulating agricultural fields to the north of Lidget Lane and is set behind mature exiting hedgerows. The nearest properties being located at some 242 metres distance to the south east (Hellaby Park Farm) and 331 metres to the south west (Spenwood Farm) with residential properties to the north at some 362 metres distance at Bridgewater Way at Ravenfield. The site has small overhead lines crossing it at its north west corner set on telegraph poles with larger pylons being located further to the east.

The site is access via the existing shared access with the adjacent Gorsefield farmhouse and currently contains a weighbridge facility (including office), a large

concrete pad area and. former 'Atcost' building utilised for product storage and as a machine workshop.

The concrete pad is split into different areas of waste reception, processing and end product storage by waste type and end production destination. The wood recovery takes place in the south portion of the site and is kept separated from the composting process which is to the north. A drainage system connects the pad to a large leachate lagoon to the north of the existing building.

The building on site is split into three portions. One for the storage of gypsum products, one for the storage of compost products and the third portion is used as a vehicle workshop for essential maintenance and repairs.

## **Background**

The site has been the subject of the following applications:

RB2002/1349 - Use of premises as a commercial composting unit.  
GRANTED CONDITIONALLY 05/12/02

RB2007/2080 - Continuation of use of premises as a commercial composting unit with variation to Condition 6 (fresh green vegetable matter to be handled and processed) imposed by RB2002/1349 to allow up to 10% cardboard to be processed.  
GRANTED CONDITIONALLY 20/12/07

RB2009/0072 - Change of use of agricultural land to form hardstanding for use in connection with existing green waste composting facility removal of 6 No. silos to allow formation of additional hardstanding area and retrospective formation of storage lagoon.  
GRANTED CONDITIONALLY 26/02/09

## Screening opinion:

The application has been screened against the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as the development site exceeds 0.5 hectares in overall area. Having appraised the scheme it is considered that this would constitute an 'Other projects,' as set out under paragraph 11(b) Installation for the disposal of waste of Schedule 2 to the 2011 Regulations and having further regards to the selection criterion set out in Schedule 3, it is determined that the proposed development by virtue of its characteristics, location, and potential impact would not be likely to have significant effect upon the environment to require the submission of a full Environmental Statement (ES).

## **Proposal**

The application has been submitted following joint visits to the site from officers and the Environment Agency as it is considered that the operations currently being undertaken no longer fall under the scope of previous planning permissions granted for the site or recent permits issued by the Environment Agency.

The operation of the site principally focus on organics recycling in the form of well-managed windrow composting, preparation of biomass materials for energy recovery, and also the recycling of plasterboard and waste gypsum for re-use.

The facility as currently operating (and as now being applied for) involves the composting acceptance of commercial biodegradable green waste (i.e. site clearance vegetation, such as bushes, hedging and small trees) along with plasterboard (gypsum and cardboard) which are either processed into compost or turned into wood chip pellets for use in the energy industry.

In respect of the compositing process, material once received is spread out onto the concrete pad and litter picked and pre-treated (shredded/mixed/watered) where required, and formed into windrows. The dimensions of each windrow are indicated approximately 2.5 metres high, 5 metres wide and 20 metres long. Gaps of suitable width to enable turning/monitoring and litter picking will be left between the windrows.

The composting process will typically last twelve weeks with sanitisation, stabilisation and maturation phases which are actively managed and turned by mechanical shovel. Monitoring equipment will be used for temperature monitoring and moisture levels will be assessed by grip test to ensure critical limits for composting are being met.

At the end of the twelve week composting process, the compost is mechanically screened and moved to the undercover compost storage area. Final compost would then be removed off site and spread onto the applicant's agricultural land. This includes areas of land further down Lidget Lane, close to the M18 at Bramley, and off Brecks Lane at Brecks.

With regards to wood / green waste process, again once received this is stored upon the external pad before being shredded and screened prior to storage on the wood processing pad awaiting transfer from site for recovery as biomass material to a suitably licensed energy from waste plant.

In respect to the gypsum operation at the site, again once received this is stored upon the external pad where it cannot contaminate or be contaminated by other material, or mixed with other waste loads, where it can then be damped down and crushed with a loading shovel to aid in the minimisation of dust.

Once it has been screened the remaining paper oversize material is shredded and mixed with the compost (to ensure that it is of custom grade) and is specific for its end us for spreading on agricultural land. The final gypsum product is stored under cover in the allocated space within the building in the northern portion of the site. Any paper etc is recycled through the onsite composting operations.

Set out below is a summary of the operations taking place on site for which permission is now sought compared with those originally approved under previous applications RB2007/2080 and RB2009/0072.

<b>RB2007/2080 &amp; RB2009/0072</b>	<b>RB2012/1707</b>
Organics recycling on site	No proposed change
Biomass pre-treatment on site	No proposed change
Gypsum recovery and re-use	No proposed change
Shredding & screening within	Shredding & screening outside

buildings	buildings
Products, such as recovered gypsum, and other materials, biomass and compost, to remain on applicants land	Products to be retained on applicants land at Bramley and , Brecks.
Annual throughput of 6,000 tonnes per annum (tpa)	Increase throughput to a maximum of 25,000 tpa
Max of 5 deliveries per day (32 tonne vehicles) equals 60 vehicle trips a week	The average of 28 HGV trips is less than previously undertaken
Hours of deliveries 10am-6pm Mon - Sat & 10am-5pm Sun	Hours of deliveries 8am-6pm Mon – Fri; 8am-Midday Sat & Sun (plus Bank Holiday)
Operations 10am-5pm Mon - Fri	Operations 8am-6pm Mon - Fri

In addition to the above, the application submission further defines the boundaries and extent of land required to enable the safe operation and process to take place which is proposed to be demarked by 2.4m high chain link fencing, along with details of the recently installed storage lagoon (for surface water run off) which measures some 31 metres in length, 12.5 metres wide by 2.2 metres in depth and according to the application has been constructed in consultation with the Environment Agency's requirements to prevent pollution to underground strata and adjoining watercourses.

The application has been accompanied with a number of technical reports which are also required to be submitted under the Environmental Agency permit application, and include: Site Management Plan (operations); Odour Management Plan; Noise and Vibration Management Plan; Fugitive Emissions Management Plan; Dust Management Plan; Accident Management Plan; Environmental Risk Assessments; Flood Risk Assessment and Transport Statement.

The application has further been accompanied with a Planning Statement (PS) along with a Design & Access Statement (DAS) which provides a description of the design and access issues considered in respect of the waste recycling operations proposed and indicates that both economically and environmentally, the composting facility sits well with the agricultural (pastoral and arable) nature of the immediate and surrounding area and will provide full-time employment for two to three persons.

The Planning Statement concludes that the application for regularising the planning status of this facility proposes a: "...measured, sensible and well thought out development for this agricultural location. The site provides a crucial recycling facility for this area of South Yorkshire, with trained and experienced managers and operators guiding its progress."

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated for Green Belt purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS4 'Green Belt'  
CS14 Accessible Places and Managing Demand for Travel  
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):

ENV2 'Conserving the Environment'  
ENV3.2 'Minimising the Impact of the Development'  
ENV3.7 'Control of Pollution'

Barnsley, Doncaster and Rotherham Joint Waste Plan- March 2012:

WCS1 'Barnsley, Doncaster and Rotherham's Overall Strategy for Achieving Sustainable Waste Management'  
WCS4 'Waste Management Proposals on Non Allocated Sites'  
WCS6 'General Considerations for All Waste Management Proposals'

### **Other Material Considerations**

Waste Management Plan for England, December 2013 (WMPE):

The Plan sets the agenda for working towards a more sustainable and efficient approach to resource use and management. It provides an analysis of the current waste management situation in England and evaluates how it will support the implementation of the objectives and provisions of the Waste Framework Directive by working towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the "waste hierarchy" (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

National Planning Policy for Waste, October 2014 (NPPW):

This document sets out detailed waste policies and should be read in conjunction with the NPPF and supports the main objective of the Waste Management Plan for England (WMPE) as referred to above. It states that local waste plans should ensure that the need for waste management facilities is considered alongside other spatial planning concerns, recognising the positive contribution that waste management can bring to the development of sustainable communities. It reinforces established Government waste policy of driving the management of waste up the waste hierarchy whilst stating that Local Planning Authorities need to ensure there are sufficient opportunities to meet the identified needs of the area.

National Planning Practice Guidance: The 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.

The NPPG does not contain specific waste policies, but it does repeat the message of the NPPF that the main purpose of the planning system is to deliver sustainable development to support the needs of society. It does, however, provide practical guidance on many potential environmental impacts, such as noise and dust impacts, which are of relevance to this proposal.

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 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 Core Strategy/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 both press and site notice, along with individual letters to adjacent occupiers. Six letters of representation have been received, four of which are from occupiers of dwellings across the open fields in Ravenfield, one is from a resident in Bramley with a further letter received from the occupier of Hellaby Park Farm set some 242 metres distance to the south east . In summary the objections note:

- The production capacity is being increased by a factor of 4 to some 25,000 tons in a semi-rural location less than 250 yards from residential housing estates.
- Even at the current productive capacity residents still experience smells from the process and our main concern is this will be significantly worse by increasing processing by 4 times.
- Further concerns are raised that with the increase of household waste there will a significant amount of wind borne paper and polythene bags.
- Additionally, further concerns are raised as to the amount of dust the processing of gypsum and plaster board will create in the crushing and screening processes which is to carried out outside.
- Potential increase in noise from additional crushing and screening machinery, what safeguards are there against this?
- The site is situated on a slope close to a residential area and there are concerns that toxic substances could contaminate the brook at the bottom of the slope and impact upon local wildlife / ecology.
- Gases produced (Hydrogen Sulphide) when gypsum and biodegradable waste are in landfill, will this occur here?
- Also the farm is located on a narrow quiet lane (Lidget Lane) with little traffic which is too narrow for HGVs to use safely.
- Traffic will also have to negotiate Bramley roundabout which has enough traffic problems already.
- The proposed expansion will bring it closer to existing residential properties.
- The odour management plan; vibration management plan (and other plans referred to in the submitted planning statement) should be submitted and agreed prior to a decision being made so a full assessment of the potential impact can be made as part of the planning process.

### **Consultations**



Streetpride (Transportation & Highways) Unit - Raises no objections on highway safety grounds subject to the recommended conditions in regards to provision of signage directing traffic away from Bramley and surfacing of internal areas to be used by vehicles.

Environmental Health – Does not envisage any significant loss of amenity by virtue of noise, air quality or land pollution impact as this will be controlled via the Environment Agency's permitting regime. On this basis, no objections to the proposed development are raised.

Environment Agency – Raises no objections to the proposals as this operation will be regulated by a revised Environmental Permit to cover the new activities. The applicant should be made aware of this matter through the appropriate informative in the event planning permission is granted.

Streetpride (Drainage Engineer) - Raises no objections to the scheme.

Severn Trent Water – Raises no objections to the proposals.

## **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 application is retrospective to regularise operations currently being undertaken on the site and to allow finished compost material to be taken off site rather than being wholly spread upon the applicant's land; to permit the recovery of gypsum waste from plasterboard; and to receive green waste with all oversize material shredded and exported as a biomass fuel.

Having given careful consideration to the application, supporting information, the relevant development plan policies and other material considerations, the consultation responses and the representations referred to above, the key issues are:

- Principle of the development in the Green Belt and the impact of the development on the openness and visual amenity.
- Environmental and amenity issues.
- Impact on highway safety.
- Whether or not very special circumstances have been demonstrated to justify the development.

Principle of the development in the Green Belt and the impact of the development on the openness and visual amenity:

The site is set within the Green Belt as identified in the Council's Adopted Unitary Development Plan and is therefore within an area of development restraint. The Council's recently adopted Core Strategy at Policy CS4 'Green Belt,' notes that: "Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy."

Paragraph 90 of the NPPF incorporates a list of developments that are considered as being appropriate within a Green Belt, subject to them preserving the openness. The operation of green waste composting facilities is not identified within this list and therefore the development is considered to represent 'inappropriate' development within the Green Belt.

NPPF Paragraph 87 states that: "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

NPPF Paragraph 88 further notes that: "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Barnsley, Doncaster and Rotherham Joint Waste Plan (JWP) adopted in March 2012, does not contain any specific policies relating to Green Belt within Rotherham's administrative Borough, although it does advise within paragraph 3.12 under Aim G that: "Waste management facilities should protect, maintain and, where possible, enhance the amenity, health and safety of local communities and the wider built and natural environment, especially in areas of sensitivity such as the *green belt*..."

The recently issued National Planning Policy for Waste (NPPW) -October 2014 notes at paragraph 6 that: "Green Belts have special protection in respect to development," and further advises that waste management facilities "...if located in the Green Belt, would be inappropriate development."

In terms of the overall harm created upon the 'Green Belt,' the buildings are already in existence and retain elements of the former agricultural nature of the site owing to their size and materials of construction. The remaining elements of the use of the land for commercial composting purposes which include the weighbridge, moveable machinery for screening and compacting along with the associated stockpiles and perimeter chain-link fencing do have a negative impact as they appear as static elements in the landscape (notwithstanding the fact that the stockpiles reduce / increase in height owing to their seasonal nature and process involved).

As a result of the above, this development must be considered as inappropriate in the context of Green Belt policy at both local and national level and notwithstanding the screening of the site from Lidget Lane, taking account of the open nature of the surrounding countryside at the rear of the site, it would compromise the openness of the Green Belt and consequently harm by detracting from the purposes of including this land within it by way of encroaching into this open countryside location.

The issue of whether or not very special circumstances have been demonstrated to justify the development are discussed below.

Environmental Considerations:

The National Planning Policy for Waste (NPPW) guides that when assessing the suitability of sites for waste management uses, that account should be taken of the physical and environmental constraints on development, including existing and proposed neighbouring land uses. It states that when assessing planning applications waste planning authorities should consider the likely impact on the local environment and amenity using the criteria set out in the document. It further advises that account should be taken of the advice of the appropriate body concerning the potential impact on health and that they should ensure that facilities are well designed so that they contribute positively to the character and quality of the area in which they are located.

Visual and Landscape impact:

The NPPF at paragraph 17 requires development to always seek a high quality of design, while paragraph 56 states: “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 for making places better for people.” In addition paragraph 57 states: “It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.”

In addition, CS policy 21 ‘Landscapes’ states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough’s landscapes. Furthermore, CS policy 28 ‘Sustainable Design’ indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and have well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions.

The proceeding ‘principle of development ’ section of this report has identified that notwithstanding the perceived agricultural nature of the development, the impact upon the openness of the Green Belt has, to a certain degree been compromised due to the location of the site on a plateau, where although views are prohibited from the south at Bramley due to the rising land and from Lidget Lane owing to the existing mature screening, open views (albeit at a distance) from residents properties across the open fields to the north are achieved with most of the concerns in this respect relating to additional stockpiled material encroaching beyond the sites existing parameters into the agricultural fields beyond, thus creating additional ‘field stores.’

In response to this matter, the applicant notes in order to comply with conditions imposed on the previous permissions which restricted off-site exportation of compost, coupled with the increased throughput of materials this has meant that additional stockpiling of materials has occurred. Furthermore owing to recent poor weather, it has not been possible to distribute as much compost onto the land as originally anticipated. It has however been identified that that additional less productive land within the applicant’s control at Bramley, off Brecks Lane at Brecks, and further along Lidget Lane would be used for alternative storage purposes which would assist with the visual

impact of the stockpiled areas and further do away with the necessity to set aside potentially productive agricultural land for storage thereby assisting with maximising the agricultural productivity of land. With this in mind the applicant is happy to accept a planning condition to limit the maximum annual throughput of 25,000 tonnes per annum to ensure there is no incremental enlargement of processing capacity of the site as a result of this development.

In respect of on-site storage i.e. windrows and materials awaiting sorting, the applicant notes that the heights of these storage piles vary seasonally, with the windrows being larger in the winter to maintain composting temperatures and the materials awaiting sorting being generally at a lower level during winter months, and that these were previously restricted to a maximum height of 3 metres under a condition imposed under previous permissions and would be willing to accept a similarly worded condition restricting the height of these piles in the event permission were to be granted for the current scheme.

On the matter of the already installed fencing, this is primarily set to the north and west of the site and is of chain link design at some 2.4 metres in overall height and coloured green. In addition laurel planting has been incorporated in front of this fencing so as to soften its overall impact when viewed from properties across the open fields to the north of the site.

Additionally, the condition of the former agricultural buildings have been acknowledged as being less than desirable in terms of their overall appearance which due to internal storage and previous processes within the buildings has led to a deterioration of the external cladding. The applicant has indicated a willingness to upgrade the buildings to bring them back to an acceptable standard by the use of new cladding materials and would be willing to accept an appropriately worded condition in the event permission were to be granted for the current scheme to ensure this could be undertaken within a six month period.

Odour, Dust Noise and Vibration:

Core Strategy Policy CS27 'Community Health and Safety,' notes that: "Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable development. When the opportunity arises remedial measures will be taken to address existing problems of land contamination, land stability or air quality."

The Core Strategy Policy further goes on to note that: "New development should be appropriate and suitable for its location. Proposals will be required to consider (amongst others) the following factors in locating and designing new development:

- a. Whether proposed or existing development contributes to, or is put at unacceptable risk from pollution, natural hazards or land instability."

In addition 'saved' UDP Policy ENV3.2 'Minimising the Impact of the 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, and to conserve and improve its quality. It will

permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so.”

‘Saved’ 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,”

Paragraph 122 of the NPPF advises that: “...Local Planning Authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local Planning Authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 123 of the NPPF further indicates that planning Policies and Decisions should 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 in new developments;
- Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established...”

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 key point is that the NPPF notes that decisions on planning applications should avoid “noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.”

Having regard to the above, the representations received mainly relate to the issues of odour, dust and noise arising from the development upon the residential amenities of nearby properties, to which taking account of these in turn the following comment is made:

Odour and Dust issues:

It is commonly accepted that composting processes produce odours, and the concerns from those properties (particularly those located downwind of the site) have been monitored by the Environment Agency. The measures taken by the applicant to comply with the requirements stipulated by the Environment Agency have significantly reduced odour emissions from the composting site, as confirmed by the Agency, and Environmental Health have raised no objections to the proposals. The imposition of a condition restricting the waste types to exclude food and animal wastes also have reduced the potential for odours from the composting operation which would also be enhanced by the increase in space which is now to be provided for the operation, as well as a further condition seeking compliance with the submitted Odour Management Plan and Fugitive Emissions Management Plan. In addition, these issues would be regulated by the permit regime application to be sought via the Environmental Agency.

In terms of dust nuisance, again the measures taken by the applicant to comply with the requirements for composting and gypsum processes now undertaken on site as stipulated by the Environment Agency have significantly reduced dust emissions arising from the site, as confirmed by the Agency, once again Environmental Health have no objections in this respect. A condition is recommended requiring compliance with the submitted Dust Management Plan, and once again this matter would also be addressed by way of the permit regime application to be sought via the Environmental Agency.

#### Noise and Vibration:

Planning application RB2007/2080 regulated by condition the type of shredder to be used in operations on the site (including noise emissions not to exceed those set out in the acoustic report) and noted that all shredding operations should take place within the existing buildings. Since that time the applicant note that there have been technological advances both in the type and acoustic levels of shredders available to the point that there is not a requirement to shred in the building.

In assessing the Noise and Vibration Management Plan, both the Environment Agency and the comments from Environmental Health suggest that these revised operations are acceptable and it is further acknowledged that the applicant does try to operate machinery when the wind direction is in a favourable direction and away from the property where the noise complaints originated from. With this in mind a condition is recommended requiring compliance with the mitigation measures set out in the Noise and Vibration Management Plan, which along with the permit regime application to be sought via the Environmental Agency would address this issue.

#### Lagoon:

The already installed lagoon has a maximum holding capacity of 969 cubic metres and is primarily utilised for the safe storage of liquid leachate derived from the composting of green waste only and surface run off waters. The concrete pad upon which the different areas of waste reception, processing and end product storage by waste type and end production destination are undertaken is connected to this lagoon via an appropriate drainage system

The conclusion contained within the submitted Flood Risk Assessment (FRA) indicates: the site is within Flood Zone 1, the current risk of surface water flooding on site is assessed to be low, the risk of groundwater flooding on site is considered to be

negligible, the proposed development will have no impact upon the conveyance of flood waters and the adoption of risk management recommendations will provide safe storage of liquids within a flood risk zone, and the application of the Sequential Test verifies that the proposed development is acceptable in the current position.

Taking account of the above, and notwithstanding the comments received in respect of pollution of adjacent watercourses as raised by objectors, it is considered that the site as developed should not impede any flood waters moving past the site as the already constructed concrete pad and bunded areas will divert water around the site through the drainage system to the lagoon. In addition the lagoon is operated at 90% capacity which provides adequate capacity to safely store liquid within a low flood risk environment in the event the site were to experience flooding. Furthermore the storage of the finished compost material on the adjacent land is material does not raise any potential groundwater pollution issues.

The site is currently and will continue to be monitored by the Environment Agency under an Environmental Permit. The purpose of an Environmental Permit is to protect human health and the environment. Officers are aware that the Environment Agency and the applicant have been working to reduce nuisances caused by the site as part of the Environmental Permit regime.

Overall, based on the changes now proposed compared to the operations previously undertaken and the advice provided by the Environment Agency along with the Council's Environmental Health Service, it is not considered that the proposal is inherently unacceptable or would have an adverse effect on the properties in the surrounding area, subject to the imposition of the suggested conditions.

Highways issues:

In terms of the highways considerations, the originally approved compositing facility and the conditions of the approval agreed a maximum of 5 HGV (32t) vehicle movements per day which based upon the weekly deliveries as approved equals 27½ deliveries a week and based upon 2 vehicle movements would equate to a maximum of 55 movements.

The applicant's Transportation Assessment identifies that around 50% of the green waste brought into the site is delivered by smaller garden firms and landscapers (normally be transit tippers, vans or trailers). The remaining green waste is brought onto site using 32 tonne HGV vehicles, the number of these varies but would typically be around 2 per day (10-12 per week) up to a maximum of 20 per week in peak season. In addition the gypsum results in 2 loads per week based upon 32 tonne HGVs.

The proposed biomass is removed off site (to Shotton Paper Mill) using 44 tonne HGVs. Vehicle movements would normally be around 5 per week, up to a maximum of 10 per week in peak season, whilst the finished compost (and processed Gypsum) is to be moved to fields using tractors and trailers.

The below table taken explains this in more detail:

<b>Site HGV Trip Generator</b>				
<b>Movement</b>	<b>Tonnage per</b>	<b>Tonnage in</b>	<b>Average HGV</b>	<b>Maximum HGV</b>

Type	year	HGV	movements per week	Movements per week
Green waste in	22,500	11,500	10	20
Gypsum Waste in	2,500	2,500	2	3
Biomass out	13,000	13,000	5	10

<b>Trip Generator</b>					
Vehicle	% of Waste	Annual tonnage	Average Weight	Annual trips	Average weekly trips
<b>Waste in (based on maximum tonnages 25,000tpa)</b>					
HGV 44t	0%	0		0	0
HGV 32t	55%	14,000	15	933	18
Light delivery vehicles*	45%	11,500	1.5	7666	147
Tractor and Trailer*	0%	0	0	0	0
<b>Waste Out (based on maximum tonnages in)</b>					
HGV 44t	60%	13,000	23	565	10
HGV 32t	0%	0		0	0
Light delivery vehicles*	0%				
Tractor and Trailer*	40%	9000	15t	600	11

In assessing the above, the Transportation Unit consider that a total of 28 HGV trips (on average) are anticipated per week i.e. 28 in and 28 out and that this is roughly comparable with the 5 No. vehicles per day previously imposed.

The total number of other vehicles delivering/collecting is 158 (on average) per week i.e. 158 in and 158 out.

Delivery hours will be 08:00 – 18:00 Monday to Friday and 08:00-12:00 on Saturdays, Sundays and Bank Holidays. On average that works out at around 1 HGV trip every 2 hours and some 2.7 trips by other vehicles every hour.

With this in mind, it is considered that the highway network can accommodate these vehicle movements and based upon the fact that a maximum throughput in tonnes can be conditioned as part of any planning approval granted, there is not therefore any justification for imposing a maximum number of vehicle movements on highway grounds.

Further conditions are however requested in respect of the provision of adequate sight visibility splays to the site, signage details in order to ensure that HGV's are directed away from entering Bramley along with a further condition in respect of the surfacing material to be used on the internal areas to be used by vehicles.

Whether or not very special circumstances have been demonstrated to justify the development:



As noted above, the proposal is considered to represent inappropriate development in the Green Belt. Taking account of the recent Court of Appeal allowing the appeals by the Secretary of State for Communities & Local Government in respect of the 'Redhill Aerodrome Limited' site, the planning balance to be struck for proposals within the Green Belt should concern the harm to the Green Belt, and any other harm that is relevant for planning purposes.

As such, it is necessary to consider whether very special circumstances exist allowing development of this type within the Green Belt. Set out below are a number of considerations the applicant considers to be of relevance to this assessment:

- a. The process as now evolved supports a sustainable waste management process insofar that it assists with the management of green waste at the highest level within the waste hierarchy and ensures that waste materials are put to beneficial use both on surrounding agricultural land and by taking these off site, offsetting the use of fertilisers and preserving natural resources.
- b. The site has been operational for over 10 years and over that time has further been extended with increased hard standing storage areas and lagoon and has previously been accepted that waste can be processed to the point where it is at today.
- c. Open air composting operations generate atmospheric odour and bio-aerosol emissions which have potential to cause annoyance and health effects with long term exposure. To safeguard against potential impacts the Environment Agency have adopted a precautionary 250m stand-off distance between composting facilities and human receptors (residential or commercial) to allow for dispersal of emissions. This stand-off distance means that it is practically impossible to locate open windrow facilities in built up areas due to the higher density of development. This constraint imposes a particular locational requirement to site open windrow composting facilities in rural areas where the stand-off distances can be achieved.
- d. The process now being undertaken represents a degree of farm diversification (despite its commercial nature) as a proportion of the end product is still being retained for use both on the applicant's land and other farmland in the locality, therefore representing a quasi-agricultural use which is not out of keeping with the predominant agricultural character of the surrounding area.
- e. The facility as now being operated does not incorporate new buildings or additional areas of hard standings to that already approved which could be deemed to unacceptably affect the openness of the Green Belt. Indeed the willingness of the applicant to update the existing storage buildings with new cladding is seen as a positive benefit.
- f. The visual impacts of the development are minimal as a result of the location of the site on a plateau when viewed from Bramly and the flat low-lying land when viewed from Lidget Lane. Views of the site across the flat low-lying land from Ravenfield are limited to distant views, with the visual impact of the development being minimised through the restriction in maximum storage heights of stored materials and windrows which can be controlled via appropriate planning conditions.

Policy WCS1 'Barnsley, Doncaster And Rotherham's Overall Strategy For Achieving Sustainable Waste Management,' as contained within the Barnsley, Doncaster and Rotherham Joint Waste Plan adopted in March 2012 notes: "Provision will be made to maintain, improve and expand the network of waste management facilities throughout Barnsley, Doncaster and Rotherham to achieve sustainable waste management across all waste streams."

Policy WCS1 further notes: "To facilitate proposals to address the identified municipal, commercial and industrial waste management capacity gap new or replacement smaller-scale facilities will be supported where these are required to serve local catchment areas and communities."

The key guiding principles for assessing waste proposals are further set out in Policy WCS1 and advise that: "Proposals will be supported which enable Barnsley, Doncaster and Rotherham's waste to be managed locally, whilst allowing waste to be imported or exported where this represents the most sustainable option," and goes on to note that: "...waste proposals will be directed towards accessible locations with good transport links, particularly in and around urban areas."

In taking account of the very special circumstances advanced by the applicant, it is noted the operation has with the previous benefit of planning permissions been in operation for the last 10 years, and during that time the applicant asserts that significant environmental contributions have arisen from the process undertaken at the site so as to limit the amount of material going to landfill. This is considered to be the overriding factor for continuing the business in its current format so as to continue to accord with the waste hierarchy as set out under National Planning Policy for Waste (NPPW) and further meet the aims / objectives Waste Management Plan for England, the NPPF and the Barnsley, Doncaster and Rotherham Joint Waste Plan.

In respect of location and to whether such an operation could be undertaken within the urban areas of Rotherham i.e. on industrial / commercial / brownfield sites, this matter has been discussed at length with the applicant. The applicant's response is that the established operation due to its nature still represents a degree of farm diversification, required to be undertaken outdoors, would be agricultural rather than industrial in appearance and, because of the potential impacts associated with odour, would be more suited to a location which is distant from potential sensitive receptors. With the above in mind it is therefore considered that this waste management activity is more appropriate to its countryside location rather than more industrial/commercial settings.

Taking account of the above, it is considered that the benefits of the development outweighs any harm due to the inappropriateness of the development in the context of Green Belt Policy, and any other harm, and therefore represent the 'very special circumstances,' to warrant the grant of planning permission for this development in the Green Belt in this instance.

## **Conclusion**

In summary, very special circumstances have been demonstrated to justify the harm to the Green Belt by reason of inappropriateness, and any other harm associated with the proposal. The development is not considered to be detrimental to residential amenity or

highway safety subject to the recommended conditions, and will provide a valuable recycling facility within the Borough.

**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:

1:500 Block plan of site

1:1250 Site location plan.

Reason

For the avoidance of doubt and to define the permission.

03

The development hereby approved shall be operated in accordance with the following supporting statements (as set out below) and the approved mitigation measures within these submitted reports shall be maintained for the duration of the operations on the site:

Drainage provisions – HJS07 (issue 01 dated 22/02/13) – received 05/06/2104

Flood Risk Assessment –HJS06 (issue 01 dated 06/0213) –received 05/06/2104

Dust Management Plan – HJMP02 March 14 –received 05/06/2104

Noise and Vibration Management Plan - HJMP03 April 2014 –received 05/06/2104

Odour Management Plan HJMP01 dated 13/03/13 – received 05/06/2104

Mobile Plant Land Spreading Management Plan – HJSMP01 – received 05/06/2104

Supplementary Information - Ref HJS08 May 2014 –received 05/06/2104

Transport Statement - HJS09 – received 05/06/2104

Reason

To enable the Local Planning Authority to control the development and to safeguard the long-term rural amenity of the locality.

04

The annual throughput of material at the site shall be limited to a maximum of 26,000 tonnes per annum as set out in the supplementary supporting statement dated May 2014 (ref: HJS08) and records shall be kept for inspection by the Council as Local Planning Authority on request of the amount of throughput of material for the duration of operations on site.

Reason:

For the avoidance of doubt and to ensure site activities have no unacceptable effect on the amenity of the locality.

05

If no substantive composting operations take place on the site for more than 24 consecutive months, the concrete base, and any structures / machinery associated with the development shall be removed from the site and the land restored to its former agricultural use. Such restoration shall be in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority within 2 months following the 24 month period referred to above.

Reason

To safeguard the long-term rural amenity of the locality

06

No compositing, shredding, processing and stockpiling of material shall take place other than in those areas indicated for these purposes on the approved 1:500 Block plan of site.

Reason

For the avoidance of doubt and in the interests of the amenity of the locality

07

No material shall be stacked, stockpiled, deposited or windrowed to a height exceeding 3 metres above the hard surface of the site.

Reason

To enable the Local Planning Authority to control the development and to safeguard the long-term rural amenity of the locality.

08

All shredding, chipping or windrow turning operations shall take place between 08:00 hours and 18:00 hours Monday to Fridays with no shredding, chipping or windrow turning operations on Saturdays, Sundays or Bank Holidays;

Reason

In the interests of the amenity of the occupiers of nearby dwellings.

09

All deliveries to and from the site shall take place between 08:00 hours and 18:00 hours Monday to Fridays, 08:00 – 12:00 Saturdays, Sundays and Bank Holidays.

Reason

In the interests of the amenity of the occupiers of nearby dwellings.

10

There shall be no incineration process carried out at the site or any incidental burning of waste material whatsoever in furtherance of this permission.

Reason

In the interests of the amenity of the occupiers of nearby properties.

11

All composted material produced shall only be for use on the Gorsefield Farm holding and no composted material shall be exported from the farm other than to those areas of land as indicated for receipt of compost spreading as identified within the submitted Land Spreading Management Plan - HJSMP01, and no retail sales shall take place from the site.

Reason

For the avoidance of doubt as to the scope of this permission and to safeguard the long-term rural amenity of the locality.

12

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no plant, building or machinery, whether fixed or movable, shall be erected, other than as expressly authorised by this permission.

Reason

To enable the Local Planning Authority to control the development and to safeguard the long-term rural amenity of the locality.

13

Within 6 months of the date of this permission, details as to the external materials to be used in the upgrading of the existing buildings as indicated on the 1:500 block plan of the site along with a suitable timescale for implementation shall be submitted to and agreed in writing with the Local Planning Authority and the upgrading works shall be implemented in accordance with the approved details.

Reason

For the avoidance of doubt as to the scope of this permission and to safeguard the long-term rural amenity of the locality.

14

Before the development is brought into use the sight lines indicated on the approved transport site plan – Aug 13 (received 01/09/2014) shall be rendered effective by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

Reason

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

15

Before the development is brought into use, that part of the site to be used by vehicles shall be properly drained and constructed in concrete, tarmacadam, block paving or other such material as may be agreed by the Local Planning Authority and shall thereafter be maintained in a sound condition.

Reason

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.

16

All HGV lorry movements exiting from the site for the purpose of the development hereby approved shall turn left into Lidget Lane and an appropriate signage scheme shall be installed in accordance with details that shall first be submitted to approved in writing with the LPA and such approved details shall thereafter be retained and maintained.

Reason

In the interest of highway safety.

17

No waste of animal origin or partially rotting or composted material shall be accepted on site.

Reason

In the interests of local amenity.

18

No animal manure or animal by-product shall be added to the compost at any stage of the process.

Reason:

In the interests of local amenity.

## **INFORMATIVES:**

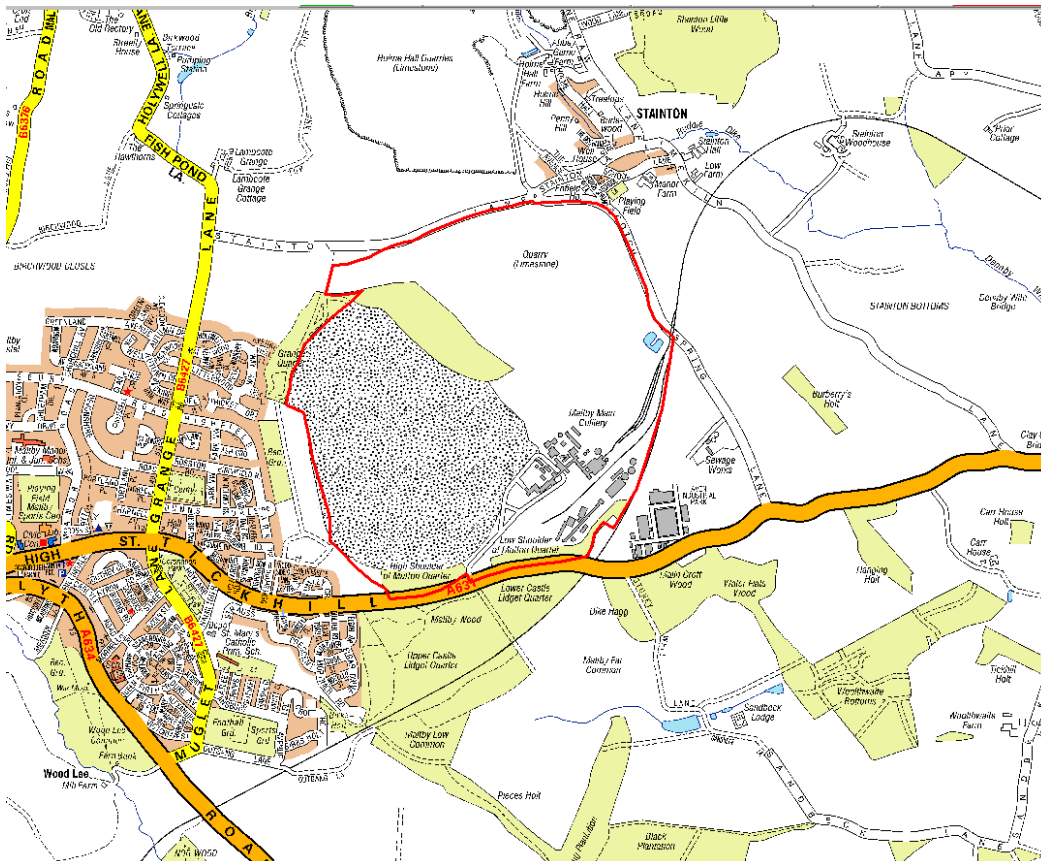
01

The applicant's attention is drawn to the need to obtain an Environmental Permit from the Environment Agency for the composting / waste operations. Any proposed discharges to surface water that are integral to the mining waste facility will also form part of the Environmental Permit. The applicant should contact the Environment Agency on 08708 506506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted. Additional 'Environmental Permitting Guidance' can be accessed via the Environment Agency website [http://www.environment\\_agency.gov.uk](http://www.environment_agency.gov.uk)

## **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 further amendments were sought in order to ensure the scheme d accord with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2014/0581</b>
<b>Proposal and Location</b>	Retrospective application for the importation of mine runoff fines (MRF) and additional importation of up to 275,000 tonnes of MRF per annum over the final year (November 2014-October 2015) at Maltby Colliery, Tickhill Road, Maltby S66 7QW for Maltby Colliery Limited
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The application site is located approximately 1.3 km to the east of the centre of Maltby and is set behind a large expanse of woodland (Maltby Woods) with access taken via Tickhill Road (A631) which provides a route between junction 1 of the M18 and Tickhill to the east. The railhead facility on site provides freight facilities between Worksop and Doncaster.

To the west of the colliery lies allotment land and the residential areas of Highfield Park and Malwood Way, to the north is open fields separated by Stainton Lane (beyond which lies Holme Hall Quarry) whilst Scotch Spring Lane lies to the east / north east. Aven Industrial Estate borders the application site to the south east.

The colliery has recently closed and with the exception of the former offices, maintenance store, methane gas convertor buildings and power plant and railhead facility, all of which are located towards the east portion of the site, the remainder of the mine buildings have since been demolished and the shafts capped.

The area to which this application relates is found set centrally within the confines of the site adjacent to the internal haul road and comprises of an open area of raised land containing a large void, which historically has been used as a lagoon for the collection of water prior to being treated and discharged via existing drainage facilities. As there is no longer a requirement for its retention, this is considered to be the most versatile area upon the site to undertake infilling and ultimately these works are envisaged as a precursor to the wider restoration pans for the site.

## **Background**

The site has been the subject of numerous applications relating to its previous use as a coal mining facility, the most recent being:

- RB2014/0494 - Retain former colliery buildings and associated plant & machinery for generation of electricity from coal mine methane.  
Granted Conditionally 15/10/14.
- RB2013/1240 - Use of former colliery building for engineering purposes including parts storage, maintenance and servicing facility, and general workshop associated with the energy and minerals industries.  
Granted Conditionally 28/10/13.
- RB2010/1396 - Application for variation to conditions 21 (to include revised working and restoration phasing arrangements), 23 (to include revised final levels of the restored site) and 24 (to include revised restoration proposals) imposed by application RB2002/0935.  
Granted Conditionally 21/03/11.
- RB2002/0935 – Application for review of conditions imposed by minerals permissions R78/3000P and D78/1714.  
Granted Conditionally 05/08/2004.

Members will recall a courtesy consultation from Doncaster MBC for a temporary planning permission (up to 5 years) to allow for the export of an additional 200,000 tonnes maximum of colliery related materials per year from Hatfield Colliery (Doncaster ref: 14/00129/MIN) which was reported to Planning Board on 03 April 2014. This was required due to remedy issues arising from a landslip experienced at Hatfield Colliery which meant that the existing spoil tip on site was declared unsafe, such that no additional material could be stored on site. At this time although Members raised no objections to the courtesy consultation proposal, comment was raised that should colliery related material be brought to Maltby Colliery then this would have to be assessed as a separate application by Rotherham MBC and due regard as part of the application submission be given over to utilising the existing railhead provision for the importation of the material. Permission for the application in Doncaster was subsequently granted on 2<sup>nd</sup> May 2014.

Since that time Doncaster MBC approved a further application (reference 12/01343/TIPA) on 4th September 2014 for the construction of an additional spoil tip to meet the operational needs of Hatfield Colliery, with associated means of access, associated site preparation, drainage works, landscaping, restoration and diversion of Stainforth Drain (the long term tip scheme) adjacent to Hatfield Colliery which subject to



permitting approval from the Environment Agency (currently awaited) would ultimately negate the need for further material to be brought to Maltby.

### Screening Opinion:

The application has been screened against the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as the development site exceeds 0.5 hectares in overall area. Having appraised the scheme it is considered that this would constitute an 'Other projects,' as set out under paragraph 11(b) 'Installation for the disposal of waste' of Schedule 2 to the 2011 Regulations and having further regards to the selection criterion set out in Schedule 3, it is determined that the temporary nature of the development by virtue of its characteristics, location, and impact would not be likely to have significant effect upon the environment to require the submission of a full Environmental Statement.

### **Proposal**

The application has been submitted on the back of application 12/01343/TIPA submitted to Doncaster MBC and originally sought permission for the importation of up to 450,000 tonnes per annum of Mine Runoff Fines (MRF) to Maltby Colliery and sought a temporary period of up to five years from the date works first commenced i.e. since April 2013. That would have equated to a total potential import of 2.25 million tonnes of material.

Following a recent public meeting, further discussions held with Rotherham MBC officers, and following Doncaster's approval of application 12/01343/TIPA the application now under consideration has subsequently been revised to reduce the overall amount of material to be imported. The proposal now relates to the importation of material up until October 2015, with a maximum import level of 275,000 for the remaining year of operations. The applicant has submitted records which indicate that up until the end of October 2014 a total of approximately 400,000 tonnes of MRF had already been deposited at Maltby. When added to the further proposed importation of up to 275,000 tonnes of MRF for the final year (between November 2014 and October 2015) this would result in a total of up to 675,000 tonnes, considerably less than originally proposed.

In support of the application the applicant has submitted a supporting statement which in summary outlines:

- The MRF is a by-product arising from deep seam coal extraction and is a gelatinous non-hazardous material containing soils, shale and other earth related materials.
- The 450,000 tonnes of MRF originally proposed was a maximum figure per annum, which is based on an estimate of the materials produced at Hatfield. This was set to make an allowance for variations in production. In reality, closer to 250,000 tonnes per annum has been imported.
- The application time period to allow MRF import for 2.5 years from its starting date, and limited to 275,000 tonnes per annum will regularise the activity which has already occurred, as well as allowing for a margin (of both time and volume) while Hatfield Colliery resolve their on-going issues with the Environment Agency.

- There are no plans to import any other materials at this stage and the application is intended to be specific to the materials and operational need arising from Hatfield Colliery.
- There will be no additional overall height added as a result of tipped materials.
- Vehicle movements for the importation have been under 8 movements per hour (4 in and 4 out), operating 9 hour shifts and would continue on this basis.

For clarity, Members' attention is drawn to the fact that ongoing surface operations are being undertaken in respect of coal washing retrieval on the western side of the site (i.e. the existing colliery spoil tip), however the applicant stresses that these ongoing operations do not in any way relate to or form part of the current planning application currently under consideration.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated for Green Belt purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS 4 'Green Belt'  
CS 14 'Accessible Places and Managing Demand for Travel'  
CS 15 'Key Routes and the Strategic Road Network'  
CS 27 'Community Health and Safety'

Unitary Development Plan 'saved' policy(s):

ENV2 'Conserving the Environment'  
ENV3.2 'Minimising the Impact of Development'  
ENV3.7 'Control of Pollution'

### **Other Material Considerations**

National Planning Practice Guidance: The 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.

The NPPG repeats the message of the NPPF that the main purpose of the planning system is to deliver sustainable development to support the needs of society. It does, however, provide practical guidance on many potential environmental impacts, such as noise and dust impacts, which are of relevance to this proposal.

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 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 Core Strategy/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 originally advertised in the Local Press on 26 September 2014 and by means of site notices posted on the 26 September. In addition in excess of 200 individual letters were sent to neighbouring residents that border the overall colliery site. Some 44 letters of representation were received, not only from those residents living in closest proximity to the site but from further afield. In summary the objections received raise the following comment:

- Concerns over the impact of the imported material upon the height and stability of the existing spoil tip;
- Unacceptable volume of traffic on already congested roads;
- Safety concerns in respect of children walking to school, users of Maltby town centre and conflict of HGV's;
- Poor state of highway and excessive amounts of material already being deposited on the highway;
- Gullies along the A631 in both directions are blocked with the silt from the vehicles causing localised flooding on a 40 mph road, the flooding often freezes in winter and is a major hazard for vehicles;
- Granting permission for a further 450,000tonnes for the next 5 years would further put stress and strain on an infrastructure and community which is already struggling.
- Traffic movement to and from the colliery are being made after daylight which is in direct contravention of the original planning application.
- Residents nearest the identified traffic route are suffering structural damage with increases in traffic;
- Why can't material be imported by rail;
- Health issues arising from noise, dust, air pollution, disturbance etc;
- No evidence of the waste being non-hazardous;
- Dumping of this material is of no benefit to Maltby;
- Concerns raised as to how the application has been advertised;
- Properties are being devalued by operations.

In addition, both Maltby Town Council and Stainton Parish Council made representation upon the application as originally submitted, primarily raising similar issues to those raised above with further comment made as to 'false promises' made by the applicant previously given to residents and respective local Councillors alike over the retrospective works undertaken; the timescales for completion; and the lack of focus for the overall plans for the wider site.

Following receipt of the additional information received from the applicant on 4 November 2014, again in excess of 200 additional letters were sent to objectors and residents notifying of these amendments. A further 6 letters of objection have since been received along with a further 19 standardised letters compiled from Maltby Model Village Community Association; however no new issues have been raised to those previously mentioned above.

Three 'Right to speak' requests have been received, one from the applicant and two from objectors.

### **Consultations**

Streetpride (Transportation and Highways) Unit: Note the revised number of associated vehicle movements and confirmation that these will be restricted to the 9 hours of working per day. This being the case no objections to the proposed works are raised.

Streetpride (Ecology): Do not object to the proposed works as there is no additional height to the final restoration scheme and the current area of tipping has no biodiversity interest.

Streetpride (Drainage): Raise no objections in principle to the scheme following confirmation from the applicant that the site drains to the existing drainage system for the wider site. Details of a surface water management plan are requested and this can be sought by the suggested condition.

Environmental Health (Contaminated Land): Offer no objection to the proposed development.

Environmental Health: Offer no objection to the proposed works subject to the recommended conditions in respect of vehicles being sheeted, dust suppression measures, details of wheel washing facilities and measures to be employed to minimise mud and dust on the highway.

Environment Agency: Verbally advise that the importation is subject to an Environmental Permit from the Environment Agency for the mining waste operations. Any proposed discharges to surface water that are integral to the mining waste facility will also form part of the Environmental Permit. Any further comment received will be reported verbally to Planning Board.

Highways Agency: Offer no objection to the proposed works.

South Yorkshire Mining Advisory Service (SYMAS): Offer no objection to the proposed works.

The Coal Authority: Raise no comment to the proposal.

### **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 of this application are therefore considered to be as follows:

- Principle of the development in the Green Belt and the impact of the development on the openness and visual amenity.
- Transportation issues.
- Amenity issues.
- Whether or not very special circumstances have been demonstrated to justify the development.
- Other matters raised.

Principle of the development in the Green Belt and the impact of the development on the openness and visual amenity:

The site is set within the Green Belt as identified in the Council's Adopted Unitary Development Plan and is therefore within an area of development restraint. The Council's recently adopted Core Strategy at Policy CS4 'Green Belt,' notes that: "Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy."

The National Planning Policy Framework (NPPF) at chapter 9 'Protecting Green Belt land,' notes at paragraph 79 that: "The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."

Paragraph 90 advises that: "Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These (amongst others) are:

- mineral extraction;
- engineering operations."

With the above in mind, it is acknowledged that the MRF created is a by-product arising from deep mine coal extraction, and under the auspices of the NPPF would therefore represent mineral extraction. However mineral extraction is no longer taking place at Maltby and as there is not a valid planning permission in place for extraction commitments, it is considered that the importation activities represent 'inappropriate' development.

The further question as to whether the importation and infilling of the lagoon represents an engineering operation has been considered, and in this respect the activity in which altering the profile of land by excavation, embanking or tipping for the purpose of disposing of waste (which is a material change of use), are generally held to represent development by virtue of sec.55.4(A) of the Town & Country Planning Act 1990. It is

considered that the importation of material that has previously taken place since 2013 and continuing as now applied for is not permitted and by virtue of its nature would therefore represent 'inappropriate' development.

Taking account of the above and in view of the recent Court of Appeal decision allowing appeals by the Secretary of State for Communities & Local Government in respect of the recent Redhill Aerodrome Limited case, the planning balance to be struck for proposals within the Green Belt should concern not only the harm to the Green Belt but any other harm that is relevant for planning purposes.

In terms of the overall harm created, notwithstanding the existing landform and screening of the site it is considered that the importation of the proposed material would fail the appropriateness test as set out in paragraph 90 the NPPF in that it would compromise the openness of the Green Belt and consequently harm it by detracting from the purposes of including this land within it by way of encroaching into this countryside location.

The issue as to whether or not very special circumstances have been demonstrated to justify the development is discussed below.

#### Transportation Issues:

The main objections to the scheme stem from concerns raised in relation to vehicular movements particularly the volume of traffic along the route between the M18 junction 1 at Hellaby and the site itself.

Core Strategy Policy CS14 'Accessible Places and Managing Demand for Travel,' notes that: "The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behavior by:

- a. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed."

In addition Core Strategy Policy CS15 'Key Routes and the Strategic Road Network,' notes: "The Key Route and Motorway network will provide efficient access between the main Rotherham Urban Area, Principal Settlements and the regional and national road network. This will be achieved by:

- a. Concentrating through traffic on Motorways and 'A' Roads with best use being made of the existing road capacity to enable this.
- b. Improving specific Key Routes to manage congestion including traffic management measures, bus priority and facilities for cyclists and pedestrians.
- d. Concentrating road based freight onto those key routes where it would not have an unacceptable impact on local communities."

The NPPF guides at paragraph 32 that: "All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans 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.”

The applicant has set out a routing strategy as part of the application submission which indicates that all importation traffic to the site is to use the M18 motorway and ‘A’ roads to access the site. Further consideration has been given to the use of the existing railhead, however the applicant notes that the railway at Hatfield was initially affected by the tip slip and so was not available. Following its re-instatement, capacity on the line has not been readily available to allow rail movements to be programmed and that is why road freight has been the preferred option in this respect.

The applicants have stated via the additional supporting documentation submitted that, subject to seeking an Environmental Permit from the Environment Agency for the tipping at Hatfield, the operation at Maltby would cease by October 2015 and therefore all that would be required to be sought would be the retrospective importation already undertaken and the further importation of up to 275,000 tonnes for the remaining year. During the period of August 2013 and October 2014 some 397,000 tonnes of MRF were imported to the site by road. Based on these importation figures this equates to approximately 72 vehicle movements per day during the period, which based upon a 9 hour day equates to 8 movements per hour (4 in and 4 out).

In addition further evidence has been submitted which indicates that the No. of HGV’s recorded as entering/leaving the site in January 2012 when the colliery was still operational was 12 No. movements (4 in/8 out during the AM peak hour) and 11 No. movements (4 out/7 in) during the PM peak hour.

With these circumstances in mind, the Transportation & Highways Unit concur with the agent’s view that a Transportation Assessment is not required bearing in mind recent traffic counts along the A631 in 2013 and 2014, the reduced scale/temporary nature of operations, and that adequate highway capacity is available along the A631. In reaching this conclusion further account has been taken to the fact that the route from J1 M18 to the Colliery is a primary route (A631), one function of which is to facilitate the movement of HGV’s with other than local origin.

Taking account of the above, it is considered that the development does not generate a level of traffic that is detrimental to highway safety and that it is in accordance with Core Strategy Policies CS14 ‘Accessible Places and Managing Demand for Travel’ and CS15 ‘Key Routes and the Strategic Road Network, and the advice within the NPPF.

#### Amenity issues:

Core Strategy Policy CS 27 ‘Community Health and Safety,’ notes that: “Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable

development. When the opportunity arises remedial measures will be taken to address existing problems of land contamination, land stability or air quality.”

The Core Strategy Policy further goes on to note that: “New development should be appropriate and suitable for its location. Proposals will be required to consider (amongst others) the following factors in locating and designing new development:

- a. Whether proposed or existing development contributes to, or is put at unacceptable risk from pollution, natural hazards or land instability.”

‘Saved’ 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,”

Paragraph 122 of the NPPF advises that: “...Local Planning Authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local Planning Authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 123 of the NPPF further indicates that planning Policies and Decisions should 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 in new developments;
- Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established...”

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 key point is that the NPPF notes that decisions on planning applications should avoid “noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.”



Having regard to the above, the majority of the representations received mainly relate to the issues of odour, dust and noise arising from operations being carried out on the existing spoil tip. These are unrelated to the current application and are subject to ongoing discussions with the Council.

It is further noted from the representations received that those residents living along the agreed route have raised concerns that they have been, and are likely to continue to be, affected by the importation of materials. In addressing such matters the applicants have noted those recent deposition incidents where they believe this has been directly attributable to the specific operation and have provided assurances that the measures in place to minimise such incidents are to be used until operations cease. These include: wheel washing facility on site; road sweepers (on and off site), and vehicle washing with a high pressure hose after unloading to remove the majority of the material from the vehicle along with hand held jet washes used after the high pressure hose wash. In addition all lorries are sheeted.

The Council's Neighbourhoods (Environmental Health) Service have assessed all of the submitted information and generally concur with the mitigation measures proposed to minimise any potential for general disturbance subject to the imposition of conditions. It is therefore considered that the proposed works for this temporary period of time will not have a detrimental impact on the living conditions of the occupiers of nearby residential properties, in accordance with Core Strategy Policy CS27 'Community Health and Safety,' UDP Policy ENV3.7 'Control of Pollution,' as well as the advice within the NPPF.

Whether or not very special circumstances have been demonstrated to justify the development:

Paragraph 87 of the NPPF notes that: "As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

Additionally Paragraph 88 advises: "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

Core Strategy Policy CS26 'Minerals,' notes: "Proposals for non-mineral development within the Mineral Safeguarding Areas (except for householder development and conversions/ changes of use which do not involve any new building or excavation works) will be supported where it can be demonstrated (amongst others) that:

- f. the development is minor or temporary in nature."

In considering the above, it is necessary to consider as to whether very special circumstances exist allowing development of this type within the Green Belt. The applicant has set out a number of considerations which they consider to be of relevance to this assessment:

- b. Had the MRF material been extracted from Maltby colliery then this would be ancillary and therefore no new permission would be required;
- c. This has been a short term 'fix' to enable Hatfield Colliery to continue its mining operations and once issues are resolved at Hatfield there will be no further requirement to import material to Maltby;
- d. It is only seen as a temporary operation having an overall short time period of 2.5 years (ending in October 2015);
- e. The deposited material will change the profile of the lagoon bottom, which is seen as 'pre-cursor' in assisting with the wider future restoration of the site;
- f. The MRF deposit will not be seen and will have no discernible visual effect other than from vantage points within the main tip area;
- g. The void would not be filled based on the revised application volumes, as one year's worth of MRF deposit as previously applied for (450,000 tonnes) only equates to approximately 8% occupancy of the void.

It is noted that, notwithstanding the retrospective nature of the operation taking place, this is ultimately a temporary operation (some 2.5 years maximum, which as of October 2014 is already 1.5 years in) and any planning permission granted would be time-limited. In addition, it is recognised that this is the most suitable location for this mining related material (notwithstanding its location within the Green Belt) and that overall the development minimises the impacts on the local environment. In view of the above, it is considered that these represent the 'very special circumstances' to warrant the grant of temporary planning permission for this development in the Green Belt in this instance.

Other matters raised:

Stability:

Comment has been made to the overall stability of the land arising from the importation of materials as the site falls within the identified Development High Risk Area as notified under the Coal Authority and therefore within the application site and surrounding area there are coal mining features and hazards which could affect the development. In this respect: The NPPF at Paragraph 120 states: "Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the development and/or landowner." The NPPF further states in Paragraph 121 "planning decisions should ensure 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 mining...and adequate site investigation information, prepared by a competent person, is presented."

In addressing this matter the applicants have set out that the Lagoon which has been accepting the MRF is some 31m deep at its deepest point and is some 600m long and 300m wide and to totally fill this would require over 3.5 million cubic metres of material. As one year's worth of MRF deposit as originally applied for (450,000 tonnes) would occupy only around 8% of the void, clearly, the void would not be filled based on the current application volumes (assuming that the maximum volumes were deposited for the maximum period). Having assessed this information both the Coal Authority and SYMAS do not consider there to be any stability issues arising.

Contaminated land:

The applicants note that the MRF material is a by-product of coal extraction which is a wet material, typically consisting of wet shales and mudstones, and is therefore inert. There is no evidence of any hazardous materials being brought to the site and having assessed the application, the Council's Neighbourhoods (Contaminated Land) Officer does not raise issues in this respect as a permit under the Environmental Permitting Regulations 2010 in relation to the deposits on site of mines run off is required.

**Socio-Economic:**

Some representations received believe that the proposal as submitted does not have any specific benefit to Maltby, and the applicant does not disagree with this. They do however consider that the effect of not accommodating spoil disposal for Hatfield colliery would mean the eventual closure of this mine, and the loss of employment, some of whom may live locally. In addition, as Maltby mine itself has closed the material will go in some way to aid the final restoration of the site

**Damage to and devaluation of property:**

Further representations have been made as to the likely damage occurring to properties along the route from the additional vehicles along with further comment regarding devaluation of properties. Whilst damage to property could be a material consideration in the determination of this application, the weight that can be afforded is minimal, particularly as it would be difficult to directly attribute any such harm to the development as now applied for. The impact on property values is not a material planning consideration.

**Conclusion**

In summary, it is considered that very special circumstances exist to justify the harm to the Green Belt by reason of inappropriateness, and the other harm associated with the proposal. It is not considered that the traffic created would be detrimental in highway safety terms, whilst in terms of noise, dust, and pollution issues these matters have been concluded to be within acceptable parameters.

The proposal is therefore recommended for approval, subject to the recommended conditions as set out below.

**Conditions**

01

The permission hereby granted shall relate to the site shown coloured red on the approved plan and shall cease on or before 31 October 2015.

**Reason**

To limit the extent and duration of the permission in the interests of amenity and due to the Green Belt nature of the site in accordance with Core Strategy CS4 'Green Belt,' as well as the advice within the NPPF.

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:

SURFACE\2014\WORKING PLANS\L11 MALTIP2014  
L11 SPOIL HEAP PLAN SECTION

Reason

To limit the extent of the permission and ensure that the development is carried out in a reasonable manner in the interests of local amenity and the intended afteruse of the land.

03

Between 1<sup>st</sup> November 2014 and the completion of development on 31<sup>st</sup> October 2015 the site shall import a maximum of 275,000 tonnes of additional material. A schedule of the monthly deposit of material shall be provided by the applicant for this period.

For the avoidance of doubt and in the interests of the amenity of the area and road safety.

04

Unless otherwise approved in writing by the Local Planning Authority, no mineral, mining waste or other material shall be imported onto this site other than that extracted from Hatfield Colliery.

Reason

For the avoidance of doubt and in the interests of the amenity of the area and road safety.

05

Unless otherwise approved in writing by the Local Planning Authority, the HGV route for importation of the MRF material shall be as set out in the applicant's routing strategy letter dated 18 July 2014.

Reason

For the avoidance of doubt and in the interest of road safety and general amenity.

06

Unless otherwise approved in writing by the Local Planning Authority, site workings (including HGV vehicular access to and from the site) shall be restricted to the following hours:

08:00 -17:00 hrs Monday to Friday

09:00 – 13:00 on Saturday

and not at all on Sundays or Public Holidays.

Reason

To protect the amenities of those residents would be located upon the highway network, and to safeguard the occupants of nearby dwellings from the effects of noise and dust.

07

Effective steps shall 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.

Reason

In the interests of road safety.

08

All loaded lorries entering or leaving the site shall be securely and effectively sheeted.

Reason

For the avoidance of doubt and in the interests of the amenity of the area.

09

At all times during the carrying out of operations authorised or required under this permission, 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.

Reason

For the avoidance of doubt and in the interests of the amenity of the area.

10

The operator shall provide and install all necessary monitoring equipment to carry out dust incidence measurements in accordance with arrangements and at location(s) to be agreed with the Local Planning Authority. The Local Planning Authority shall have freedom of access to all dust monitoring records and results from the site on request.

Reason

For the avoidance of doubt and in the interests of the amenity of the area

11

Within 1 month of the date of this permission, a surface water management strategy to enable the disposal of surface water shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be implemented only in strict accordance with the approved scheme.

Reason

To protect the underlying secondary and principal aquifers from contamination from the colliery spoil.

**Informative:**

01

The site will require an Environmental Permit from the Environment Agency for the mining waste operations. Any proposed discharges to surface water that are integral to the mining waste facility will also form part of the Environmental Permit. The applicant should contact the Environment Agency on 08708 506506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be

granted. Additional 'Environmental Permitting Guidance' can be accessed via the Environment Agency website [http://www.environment\\_agency.gov.uk](http://www.environment_agency.gov.uk)

The site will require a permit under the Environmental Permitting Regulations 2010 in relation to the deposits on site of mines run off. Please contact the Council's Safer Neighbourhoods Team to discuss matters further.

02

Any pollution of groundwater or watercourses should be reported immediately to the Environment Agency using the incident hotline number (0800 807060).

**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 further amendments were sought in order to ensure the scheme accorded with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2014/1025</b>
<b>Proposal and Location</b>	Demolition of existing offices & workshop and erection of 2 No. detached dwellinghouses and associated detached garages Winthrop Park, Second Lane, Wickersley S66 1EE
<b>Recommendation</b>	Refuse



## Site Description & Location

The site to which this application relates is located to the west of Morthen Road accessed via Second Lane which is a single width road set within open undulating countryside to the west and south. There are existing allotments located to the north access to which is achieved via a track set to the east, beyond which lies in open fields.

The site comprises of two substantial flat roofed brick constructed buildings set close to the road in an L-shaped formation which were previously used by RMBC until 2003 for workshop, maintenance purposes in connection with the other outbuildings (portacabins) which are set further into the site when it was operated as parks nursery and storage depot. A greenhouse is further located upon the site which is also believed to have been used for the growing of plants associated with the former nursery use.

The site is now used as a Nature Therapy Garden, and has been landscaped with a mix of soft and hard landscaping with a number of structures (pergolas, walkways etc) added to the garden layout. The former RMBC buildings on site are used for a mix of ancillary related purposes which include maintenance shed, training room, café, charity shop and toilet facilities.

The perimeter of the site is defined by the addition of 2 metre high security fencing and access gates to the west, south and east boundaries with a mix of landscaping / security fencing to the north boundary which separates the site from the adjacent allotments.

## Background

The site has been the subject of the following applications:

- RH1972/7285 - Use of part of existing sewage disposal works for agricultural purposes.  
GRANTED CONDITIONALLY 13/06/72
- RB1975/2216 - Erection of 2 portable buildings.  
GRANTED 10/09/75
- RB1997/1092 - Application for a lawful development certificate re: use of premises for horticulture, welding and fabrication, joinery, vehicle mechanics and decoration.  
REFUSED 12/06/01
- RB2003/1457 - Change of use to garden allotment for the disabled.  
CANCELLED 25/09/03 (It was considered at the time that no change of use had occurred so planning permission was not required).
- RB2013/1654 - Demolition of existing offices & workshop and erection of 2 No. detached dwellinghouses.  
WITHDRAWN 30/01/14

## Proposal

The proposals seeks full permission for the demolition of existing offices & workshop and erection of 2 No. detached dormer style dwellinghouses and associated double detached garages which are indicated as being some 5.6 metres in depth and 7 metres wide ranging in height between 4.2 and 4.6metres. Each dwelling would be identical in design though 'handed' in appearance, with Plot 1 located close to the western boundary of the site, with its garage adjacent to it close to the northern boundary. Plot 2 would face Plot 1, at its closest point at a distance of approximately 17.5m, and would also have a double garage located close to the northern boundary. Plot 1 is indicated to have a garden of some 120 sq metres in area to the north of the property itself whilst Plot 2 is further indicated to retain the existing therapy garden as its formal garden area.

In terms of footprint each dwelling is indicated at approximately 186 sq metres with an overall height of some 6 metres providing four bedroom accommodation with lounge, kitchen / dining and utility area.

Access to the site is indicated to utilise the existing access point off Second Lane with this being widened / splayed to include additional land which would be utilised as adopted highway and provide turning facility for refuse / emergency vehicles. The applicant further draws attention to the fact that an informal passing bay has been provided along Second Lane which also gives access to the adjacent agricultural fields.

In support of the application a number of technical reports have been supplied which in summary note:

#### Flood Risk Assessment:

This report identifies that all land gradients are leading away from the proposed development, and the design and location of the two plots such that the dwellings are well above the highways level of Second Lane (which is the lowest point in the surrounding area).By overlaying the Environment Agency flood risk map with RMBC's Local Development Plan map the report confirms that there is very low or no risk to the site by nature of surface water run-off and none from river issues.

In the extreme weather of June 2007, this can be described as a "once in a lifetime event," as there was surface water flooding on Second Lane (which lasted for a few hours) and consequential damage to the road surface itself. No water came into the site from this flooding and no standing water or flooding occurred on the site itself. Access to the site was limited for part of the day. However it did not stop people coming back and forth.

A supplementary report into providing safe access and exit concludes that the development fully meets the required guidelines for new development for safe access and exit.

#### Drainage Strategy:

This report notes that the present buildings on site (collectively of similar footprint to the proposed development buildings) do not discharge rain water into the main drains, and their present soakaways have been more than suitable in the past. There are also three surface water soakaways in the garden area to accommodate rain water from the car park and block paved footpath areas.



Present foul drains discharge directly to the main sewer system, and there is more than sufficient land gradient to accommodate any revised drainage systems for the proposed new plots. Notwithstanding the soakaway issue above if these are deemed inappropriate, the report notes that there is sufficient land on site for any developer to accommodate water recycling or water storage/release facilities.

The report further notes that the existence of a major sized Severn Trent main sewer has led to the proposed location of the development on site (as it cuts across the eastern part of the site, thereby negating any development in this location). However, this is a minimum of 2m below the soil surface of the site and would facilitate connection of any required new build requirement.

### Bat Survey:

This report indicates that of the six buildings surveyed only one had very low potential for bat roosting with the remainder having no suitable roosting opportunities, additionally no mature trees that would provide suitable roosting opportunities for bats were identified in close proximity to the buildings. The report did note that land around the site may provide a suitable foraging habitat for bats although the area immediately surrounding the site lacks specific features that would provide high value foraging habitats, such as established hedgerows.

With the above in mind, due to the relatively low potential for roosting bats and the lack of specific foraging features it is assessed that the demolition of the existing buildings on the site would not have a major impact on foraging bats.

A supplementary ecological survey undertaken notes that the site is fenced around its perimeter and has a significant number of visitors and vehicle movements – which itself would be off-putting and inhibitive to most wildlife. The physical area does not contain suitable wild plants, soil types, water sources, breeding habitats, etc. to enable such protected species to locate. Specifically their normal domain and suitable habitats are far away from the application site and any future migration is exceptionally unlikely.

### Contaminated Land report:

This report notes that the application site forms a small portion of land from what was originally a former sewage treatment works, and that some remedial works have already been undertaken which comprise the following:

- a) Removal of asbestos roofing and former air blown heating system with asbestos containing materials.
- b) Removal of fly tipped material and metal work.
- c) Removal of heating oil tank and gas cylinders.
- d) Import of 72 tonnes of clean subsoil/topsoil for garden/landscaped areas.
- e) Infilling of vehicle inspection pit with clean inert materials and concrete cap.

The report advises that the sewage treatment beds were located to the back of the proposed development area, and contamination (heavy metals and organics) may have arisen through migration/leaching of contaminants from one area of land to another with any leaching/migration effects may be concentrated in the shallow soil zones. Notwithstanding this matter the report concludes that as the gardens have been created by deep excavations and removal of debris, the site is not safe of contamination or

health risk, however as a safeguard, future soil samples should be taken prior to any building work actually commencing.

Design and Access Statement (DAS):

This document discusses that the current workshops and office buildings are out of character to the surrounding residential and Green Belt area, with the design of the two dwellings being of low profile from the road aspect and of a rural “rustic” courtyard concept. The remaining outbuildings will be removed and the existing garden incorporated into the scheme.

The DAS additionally focuses on the fact that two new proposed dwellings are overlaid within the present workshop, outbuildings, and hard standing tarmac areas that originated from the construction and does not affect in any way the present garden areas. Additionally the scheme as submitted will enable additional garden areas to be created from some of the present car parking areas and removed outbuildings. The DAS notes the dwellings are designed so as to nestle within the contours of the land gradient, perimeter fencing, and screening of the site. Trees and hedges planted over the years are now mature enough to visually mask the new buildings from the road.

The DAS further notes that the scheme will greatly reduce traffic flow from its present use, and provides a suitable hammer head turning and manoeuvring facility within the site to adoptable standards.

The applicant is aware that the proposed development represents inappropriate development in the Green Belt and that very special circumstances have to be demonstrated and has submitted supporting information in this respect. This will be examined in more detail in the Appraisal section to this report.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham’s Local Plan together with ‘saved’ policies from the Unitary Development Plan (UDP).

The application site is allocated for Green Belt purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

- CS4 ‘Green Belt’
- CS14 ‘Accessible Places and Managing Demand for Travel’
- CS27 ‘Community Health and Safety’
- CS28 ‘Sustainable Design’

Unitary Development Plan ‘saved’ policy(s):

- HG5 ‘The Residential Environment’
- ENV3.2 ‘Minimising the Impact of Development’
- ENV3.7 ‘Control of Pollution’

## **Other Material Considerations**

Supplementary Planning Housing Guidance 3: 'Residential infill plots.'

Interim Planning Guidance - 'Development in the Green Belt'. This has been subject to public consultation and adopted by the Council on 3rd March.

Council's adopted Car Parking Standards (June 2011).

South Yorkshire Residential Design Guide (SYRDG).

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 27<sup>th</sup> 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 Core Strategy/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 and site notice. No letters of representation have been received. The applicant has requested the right to speak at the meeting.

## **Consultations**

Streetpride (Transportation & Highways) Unit: Raise no objections to the proposal on sustainability / highway safety terms subject to the recommended conditions in respect of details of the proposed manoeuvring facility, surfacing of vehicular areas, and sustainable transport measures.

Streetpride (Landscape Services): Notes that the site layout does not clearly show where the plot demarcation is or where the driveways and other elements are. The site plan is poorly annotated, and it is not clear whether the sensory garden is intended to stay operational or be taken with the boundary of plot 2. The scale of the dwellings seems overbearing for the size of the plot, leaving small and oddly shaped garden sizes.

Streetpride (Ecology): Comments that the survey work undertaken is appropriate and the results are accepted. There is currently no ecological constraint to the demolition of

the existing buildings within the site. There is potential for incorporating biodiversity features in to new developments by way of native landscaping, mixed-species hedgerows and the use of bat roost and bird nest features and this could be controlled by way of the recommended condition.

Neighbourhoods (Contaminated Land): Raises no objection to the proposal.

Streetpride (Drainage): Confirms that the submitted details are acceptable and in the event permission was to be granted drainage matters can be conditioned.

Severn Trent Water: Raise no objections to the proposals subject to the recommended informative advising of the need to contact Severn Trent to discuss the location of a public sewer within the site.

## **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 consider in the determination of this application are:

- Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework and development plan policy;
- The effect of the proposal on the openness of the Green Belt and on the character and appearance of the surrounding area;
- Design, layout and appearance;
- Impact on the residential amenity of future occupiers of the properties;
- Impact on highway safety;
- Contaminated land issues;
- Flooding issues;
- Ecological matters;
- Very special circumstances necessary to justify harm caused.

### Whether the proposal would be inappropriate development:

The site is overwashed Green Belt as identified in the Council's Unitary Development Plan and is therefore located within an area of development restraint.

Core Strategy Policy CS4 'Green Belt,' notes that: "Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy."

The National Planning Policy Framework notes at paragraph 89 that: “A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are (amongst others):

- buildings for agriculture and forestry;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”

Taking account of the above, the applicant acknowledges in supporting documentation submitted as part of the application proposal that the construction of the 2 no dwellings would not have any physical association with the existing therapy garden and therefore fails the first exception.

Secondly, the proposals fail the second exemption in that the scheme does not represent replacement buildings as the new build is not within the same use.

Thirdly because the site is surrounded by open countryside to all sides it cannot be regarded to represent limited infilling and furthermore the scheme fails the definition of ‘previously developed land,’ as set out in the NPPF, which specifically excludes land that has been occupied by agricultural buildings, and the site was formerly used as part of the Council’s garden nursery site which would fall within this category.

As such, the proposal is considered to represent inappropriate development in the Green Belt. The demonstration as to the ‘very special circumstances’ to justify the inappropriate development, and any other harm caused, is discussed in greater detail below.

#### Openness and character and appearance:

Paragraph 79 to the NPPF notes that: “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

It is noted that the NPPF is silent on its definition of openness, however recent appeal and High Court decisions refer to: “an absence of development, ” and that in assessing the impact on openness, it is generally accepted that the scale of development that equates to the same level of built form on the site or only a small increase in volume could be considered to not have a greater impact on the openness of the Green Belt.

With the above in mind, and in addition to the harm and impact that would be caused by its acknowledged inappropriateness, the applicant has set out that the demolition of the buildings on the site and its replacement with 2 no. dwellings would increase openness by removing buildings already present on site and has attempted to demonstrate this by way of volumetric and footprint calculation comparisons.

These comparisons set out that in terms of the buildings to be demolished this would equate to a total volume of approximately 1,000 cubic metres with the replacement dwellings (including roof voids) being approximately 1,580 cubic metres which represents an overall increase of approximately 58%. Additionally in footprint terms the area of build development is indicated to increase from 340 sq metres to 500 sq metres which equates to an overall footprint increase of 48%.

In terms of the wider locale as the surroundings comprise of open undulating countryside to the south, west and east these allow open views from public vantage points at some significant distance, with short range views obscured from the allotments located to the north. Overall the proposal would appear as a sizeable and prominent addition to what is currently an open garden area, and would have a significant visual impact.

Although the scheme to demolish these buildings would result in a net benefit in terms of openness by bringing development away from Second Lane frontage, their replacement with development consisting of both larger volume and footprint as well as the disproportionate curtilage (and associated domestic paraphernalia) created by the proposed development coupled with the required highway works to facilitate the proposed turning head would open up the site to an unacceptable degree thus harming the overall character and appearance of the locality.

For the above reasons, the proposal would detract from the open character and appearance of the surrounding area and would have a significantly greater, and therefore detrimental, impact on the openness of the Green Belt than the existing built form, contrary to both national and local Green Belt policies.

#### Layout, design and appearance:

With regards to layout, design and appearance considerations, Core Strategy Policy CS28 'Sustainable Design,' states that: "Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping."

The NPPF 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 National Planning Policy Guidance (NPPG) (March 2014), notes that "Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations. The NPPG further goes on to advise that: "Local planning authorities are required to take design into consideration and should refuse permission for development of poor design."

UDP Policy 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."

South Yorkshire Residential Design Guide (SYRDG) notes that: "Off-street parking must be integrated within the overall scheme so that it does not visually dominate the street or shared private areas."

The SYRDG further advises that all new dwellings should be provided with 60sq metres of external amenity area (for those dwellings 3 bedrooms and above) along with internal spacing standards providing a minimum of 77 sq metres per dwelling.

Taking account of the above, it is considered that overall the dwellings as proposed are appropriately designed both in layout terms as the garden space accords with the above minimum requirements set out in the South Yorkshire Residential Design Guide and furthermore with regards to its internal layout this further accords with the SYRDG. Notwithstanding its Green Belt locality, the dormer design is not uncommon in the locality and is therefore accepted.

#### Impact on the residential amenity of future occupiers of the properties:

The NPPF states at paragraph 17 that within the overarching roles that the planning system ought to play is a set of core land-use planning principles that 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 Council's Supplementary Planning Guidance - Housing Guidance 3: 'Residential infill plots,' notes that regard should be had to the following criteria:

- (i) normal inter-house spacing should be observed (that is, 20 metres minimum between principal elevations or 12 metres minimum between a principal elevation and an elevation with no habitable room windows),
- (v) where there is potential for loss of amenity to the adjacent dwellings, the dwelling should be either single-storey with a double pitched roof or should only have rooms in the roof with roof lights."

South Yorkshire Residential Design Guide Policy B1.3 Using the interior of blocks states: 'The space within a perimeter block serves a number of different purposes and the distance between buildings therefore needs to take into account a number of different considerations i.e privacy, visual mass of buildings, amenity space, daylighting and natural ventilation'. The guide goes on to suggest a 25 degree rule is used to assess the impact.

Taking account of the overall orientation and window positions, it is not considered that in this respect the future amenities of the occupiers of these properties would be detrimentally affected and that the relevant guidelines and distances can be achieved.

#### Impact on highway safety:

Core Strategy Policy CS 4 'Accessible Places and Managing Demand for Travel,' notes that: "The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behaviour. Accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by (amongst others):

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- b. Enabling walking and cycling to be used for shorter trips and for links to public transport interchanges."

The NPPF further notes at paragraph 34 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, particularly in rural areas."

The applicant notes that in 2003, approximately 150 to 300 visitors a year were anticipated to benefit from the created sensory garden. In 2012 over 9,600 visitors were recorded and by 2013 in excess of 10,000 and that these have been brought to site in a variety of vehicles ranging from cars to large 52 seat coaches.

Having assessed the application Streetride (Transportation & Highways) Unit considers that the site is not ideally located in terms of sustainability; however the introduction of 2 no. dwellings to this locality will be substantially less onerous in vehicle traffic terms than the existing garden use.

In layout terms, the dwellings have been designed with an enhanced access provision which provides for prospectively adoptable manoeuvring facility for a refuse vehicle fronting the site in Second Lane, whilst in car parking terms, the indicated on site car parking is considered to accord with the Council's car parking standards. Therefore no objections are raised to the scheme on highway safety grounds.

#### Contaminated land issues:

Core Strategy Policy CS27 'Community Health and Safety,' notes that: "Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable development. When the opportunity arises remedial measures will be taken to address existing problems of land contamination, land stability or air quality."

The Core Strategy Policy further goes on to note that: "New development should be appropriate and suitable for its location. Proposals will be required to consider (amongst others) the following factors in locating and designing new development:

- a. Whether proposed or existing development contributes to, or is put at unacceptable risk from pollution, natural hazards or land instability."



In addition 'saved' UDP Policy ENV3.2 'Minimising the Impact of the 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, and to conserve and improve its quality. It will permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so."

'Saved' 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,"

Paragraph 122 of the NPPF advises that: "...Local Planning Authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local Planning Authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."

Taking account of the above, and the previous use of part of the site as a sewage farm, the applicants submitted a contaminated land survey which has been assessed by the Council's Contaminated land officer who notes that the site may have contained contamination in the past, however, taking account of the fact that the site has been re-developed using imported materials (i.e soils etc) then the risk from contamination is negligible and therefore no objections are raised.

#### Flooding issues:

The NPPF notes at Paragraph 103 that: "When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems."

The site is not located with the identified flood risk areas as set out under the Environment Agency's mapping systems and has further been supported by extensive technical reports / observations taking account of when the floods occurred in 2007.

Having assessed the information the Council's Streetpride (Drainage Engineer) is satisfied that the site if developed would not lead to instances of flooding to the locality, and that in the further event of flooding occurring in this locality that adequate access / egress to the site could be achieved. In this respect it is considered that in the event that permission were to be forthcoming drainage matters could be controlled via the imposition of suitable conditions.

Ecology matters:

The NPPF notes at Paragraph 118 that: "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying (amongst others) the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged."

Having assessed the submitted bat survey work the Council's Ecologist has noted that there is currently no ecological constraint to the demolition of the existing buildings within the site and in constructing a new building in its place there is the potential for incorporating biodiversity features by way of native landscaping, mixed-species hedgerows and the use of bat roost and bird nest features in new development and this could be controlled by way of the imposition of suitable conditions in the event that permission were to be forthcoming.

Whether or not very special circumstances have been demonstrated:

The NPPF notes at paragraph 87 that: "As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances." Paragraph 88 adds that: "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

The applicant has set out a number of 'special circumstances,' behind the application citing:

- Two dwellings in the footprint of the former buildings and car park area only is of least environmental impact.
- The fact that main drains of Wickersley cut through the site and the positioning of the two proposed plots within it would ensure no further development could take place structurally in the future.
- The two land parts could be sold for commercial use, which at some time in the future someone else could profit from planning permission.

- RMBC have selected the field opposite on Second Lane for a preferred and proposed LDF site for 128 new homes.
- The proposal will significantly reduce traffic flow on Second Lane, which if retained as commercial property could in fact see larger commercial vehicles accessing the lane.
- The provision of a vehicle turning facility within the site will no doubt be used for the benefit of others using the lane or travelling beyond the site.
- The applicant is a UK Registered Charity who solely owns the land in total – not an individual or company – and so no person, shareholder, or corporate body will profit in any way from the approval of planning permission.
- Under Charity Commission rules all money raised would have to be used for our charitable purposes and for no other aspect what-so-ever. The safeguard to this is that should at a future time the charity close, then the Charity Commission will ensure all remaining funds and assets are allocated to other like-minded charities as near to our geographical location as possible.
- Over the last 10 years £560,000 has been spent and has never charged an entrance fee. Therefore only by maximising assets now could the charity ever hope to enhance what we do and plan to do in future years. As a small independent charity we have to operate within current budgets.
- The present old buildings are a maintenance concern, and were not constructed to modern building standards. It will be impossible for the charity to have the resources or manpower to up keep these in coming years.
- It is very unlikely that any other organisation would have the finances or man power to up keep the present site in good order if the charity moves out.
- The proposal would enhance visually the area and maximise the chance that it will remain well maintained if it went into private dwelling ownership.
- The Charity is actively looking for an alternative site (ideally within Rotherham's boundaries) but nothing as yet has been secured. To tie the application with a legally binding S.106 obligation to make the scheme acceptable (i.e. not to develop the site until other premises are sourced and any permissions in place) is not feasible having taken advice and feedback from the Charities Commission.

In responding to the above justification, it is acknowledged that the charity has undertaken tremendous work within the community and has effectively 'outgrown' its current site. However it is not considered that the circumstances set out above, either individually or combined, are so 'very special' to overcome the harm caused. The granting of 'enabling' development can be used to generate funds, for example, for the renovation of an important listed building, and this can justify inappropriate development in the Green Belt.

Whilst the signing of a S106 Planning Obligation with the Council could ensure that any funds generated would be used by the charity, the applicant has indicated that the limitations of such an agreement are not acceptable. In any event, in this instance the applicant is merely attempting to raise income for the existing charity and this in itself is not considered to represent 'very special' circumstances to justify the development. In addition, granting a permission on this basis would set a precedent for similar proposals by other charitable bodies elsewhere in the Green Belt.

It is considered that the applicant has failed to justify the very special circumstances to justify the inappropriate development in the Green Belt and therefore the proposal is considered to be contrary to Core Strategy Policy CS4 'Green Belts' and policy contained within the NPPF. It is recommended that planning permission is refused for the application on this basis.

## **Conclusion**

Taking account of the above, the proposal for the demolition of the existing buildings on site and the erection of 2 No. dwellings would amount to inappropriate development in the Green Belt. In addition, the new build would have a greater volume than the existing buildings to be demolished and as such would have a greater impact on the openness of the Green Belt than the existing built form on the site. The applicant has failed to provide the very special circumstances to justify this inappropriate development in the Green Belt. As such, the proposal is contrary to Core Strategy Policy CS4 'Green Belts' and the advice contained within the NPPF.

As such, it is recommended that planning permission should be refused for the scheme for the reason set out below.

## **Reason for Refusal**

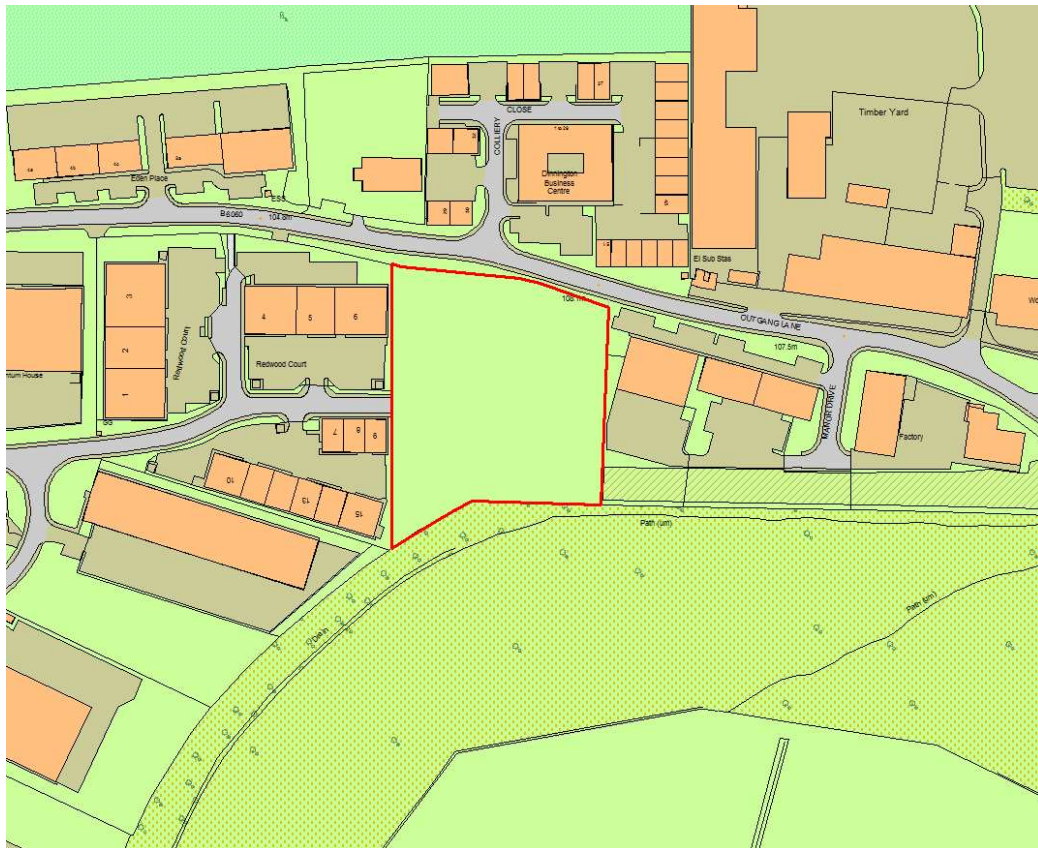
01

The Council considers that the proposal for the erection of 2 No. dwellings and associated garages is inappropriate development in the Green Belt and that the development would have a detrimental impact on the openness of the Green Belt in this location. No very special circumstances necessary to justify the harm caused have been demonstrated by the applicant. As such, the proposal is contrary to Core Strategy Policy CS4 'Green Belts' and the advice contained within the NPPF.

## **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 was further amended. However it is not considered that the scheme as submitted is in accordance with the principles of the National Planning Policy Framework and could not therefore be supported resulting in this refusal.

<b>Application Number</b>	<b>RB2014/1071</b>
<b>Proposal and Location</b>	<b>Erection of 2 No. industrial buildings (Use Classes B1(b), B1 (c), B2 and B8, at land at Campbell Way, Dinnington</b>
<b>Recommendation</b>	<b>Grant subject to conditions</b>



### Site Description & Location

The site of application extends to approximately 1.2 hectares and is located to the south of Outgang Lane, Dinnington. The site is within an established industrial area and is accessed off Campbell Way. The site is currently undeveloped and was formally part of the now reclaimed Dinnington Colliery site. The surrounding area is predominately industrial with smaller business units. Across Outgang Lane to the north is the Dinnington Business Centre whilst to the north east of the site across Outgang Lane on a former wood yard site planning permission has been granted for residential development. To the south of the site is open space land.

### Background

RB1999/1584: Relocation of 300,000 cubic metres of colliery spoil to infill the rail cutting and place on main tip - GRANTED CONDITIONALLY 07/06/00

RB2002/1516: Reclamation and restoration of former colliery site to a form suitable for future employment, amenity and recreation uses  
- GRANTED CONDITIONALLY 31/03/03

RB2002/1696: Layout of roads and sewers to facilitate development of land for Class A2 (Financial and Professional Services), B1 (Business), B2 (General Industrial), B8

(Storage and Distribution), C1 (Hotels), D1 (Non-residential Institutions) & D2 (Assembly and Leisure) purposes, and use of land for amenity open space and willow coppicing

- GRANTED CONDITIONALLY 02/07/04

RB2004/1346: Outline application for a mixed use development to include A2 (Financial and professional), A3 (Food and Drink), B1 (Business), B2 (general industrial), B8 (Storage and distribution), C1 (Hotel), D1 (Non - residential institution) on phase 1 of the development excluding plots 6 and 7 (fig.2a). The application also proposes B1 (excluding offices), B2, B8 and C2 uses only on phase 2 of the development and plots 6 and 7 of phase 1 (fig.2a).

- GRANTED CONDITIONALLY 01/04/05

## **Proposal**

The proposals are to construct two separate buildings for B1(b) research and development, B1(c) light industrial, B2 general industrial and B8 storage and distribution uses. The proposals are speculative with no end users proposed for the units.

Each building would measure 76 metres by 31.5 metres, 8 metres in height to the eaves and 9.6 metres to the ridge of the double pitched roof, creating a total floorspace of approximately 4,800 sq metres.

Building 1 would be located to the north of the site immediately adjacent to Outgang Lane. The rear elevation of the building would be located fronting Outgang Lane with its front elevation facing a shared courtyard between the two buildings.

Building 2 would be located to the south of the site facing Building 1 to the north across the courtyard.

The buildings would be externally clad in profiled and plain metal with a coloured outer face of grey and blue. The entrance doors will be glazed with powder coated coloured frames. The buildings would have overhanging roof feature which would create a 2m projecting high level canopy.

The site would have a central service yard and car park accessed off Campbell Way to allow deliveries and vehicle parking as well as loading.

Supplementary parking areas would be located at both ends of the buildings. In total there would 88 parking spaces provided on the overall site, of which 9 will be accessible spaces, as well as 24 No. covered cycle parking spaces.

There would be soft landscaping proposed along the perimeter of the site and along the road frontage of Outgang Lane. The existing paladin perimeter fencing would remain in situ with new entrance gates provided from Campbell Way.

The application has been accompanied by a Design and Access Statement which notes that: "The buildings will be constructed to allow future sub-division internally into up to four terraced units in both buildings. Service yards are to be provided to allow delivery vehicles to park safely off the main access road and be loaded."

In addition, a Flood Risk Assessment has been submitted which concludes that the risk of flooding at the site is low.

In addition, a land contamination report has been submitted which concludes that “No elevated concentrations of any common contaminants were recorded in the samples tested. Therefore, a significant risk to human health, plants or controlled waters is not anticipated.”

A Transportation Statement has been submitted which uses industry standard “ARCADY” modelling and the “TRICS” database to assess the likely traffic impact of the development on the nearby roundabout at Outgang Lane/Nobel Way/Monksbridge Road/Common Road. This has predicted a likely increase in two way trip generation of 34 vehicles in the AM peak and 35 vehicles in the PM peak. The Transportation Statement also considers the likely scenario in 2019 and concludes that traffic will remain within the capacity of the local network once development is fully occupied.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham’s Local Plan together with ‘saved’ policies from the Unitary Development Plan (UDP).

The application site is allocated for Mixed Use purposes (MU36) in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

- CS9 ‘Transforming Rotherham’s Economy’
- CS14 ‘Accessible Places and Managing Demand for Travel’
- CS28 ‘Sustainable Design’
- CS33 ‘Presumption in Favour of Sustainable Development’

Unitary Development Plan ‘saved’ policy(s):

- Policy EC5.1 ‘Land identified for Mixed Use development’
- Policy ENV3.7 ‘Control of Pollution’

### **Other Material Considerations**

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 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 Core Strategy/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 press and site notices along with individual notification letters to adjacent businesses. No letters of representation have been received.

## **Consultations**

Streetpride (Transportation & Highways): Have stated that the submitted Transportation Statement has used acceptable methodology and adequately demonstrates that the traffic generated from the development would remain within the capacity of the local network.

The proposed car parking (88 No. spaces of which 9 will be accessible spaces) accords with the Council's maximum parking standards. 24 No. covered cycle parking spaces are proposed which also accords with the Councils standards.

Pedestrian accessibility is considered to be adequate and public transport to the site reasonable. The Travel Plan submitted with the application is somewhat generic and will require modification therefore it is recommended that a condition be attached to any planning permission granted that requires the submission of an amended Travel Plan.

No objections are raised to the proposal from a highway aspect subject to recommended conditions relating to the provision of the car parking areas being laid out in accordance with the submitted plan and the vehicle parking areas being suitably hard surfaced.

Neighbourhoods (Environmental Health) Raise no objections to the proposals in terms of impact on neighbouring amenity. However, they recommend that an informative is appended to any planning permission granted that relates to the control of working practices during the construction phase.

Streetpride (Landscape Design): Notes that there is a sewer running along the Outgang Land frontage and that it is unfortunate that the sewer easement prevents the inclusion of more landscaping to this frontage. On the basis of these constraints it is sensible to replicate the existing beech hedge as shown. The species proposed are acceptable and the level of landscaping is also acceptable.

## **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 with regards to this application are as follows:

- Principle of development
- The appearance of the proposals
- Impact on neighbouring properties
- Highway impact

#### Principle of development

With regards to the principle of the development the Council's Core Strategy Policy CS9 'Transforming Rotherham's Economy' states (amongst other things) the following:

"Rotherham's economic performance and transformation will be supported by:

1. Allocating sufficient land in the Sites and Policies document to meet Rotherham's employment land requirement of 230 hectares of land for business and industrial development and 5 hectares of land for office floorspace for the Plan period in accordance with the Spatial Strategy set out in Policy CS1 Delivering Rotherham's Spatial Strategy. These allocations will support employment growth in sustainable locations and meet modern economic requirements.
2. Protecting viable employment sites and supporting the regeneration and intensification of previously developed land, including proposals which safeguard the viability of established industrial and business areas through improvements to buildings, infrastructure and the environment.
3. Safeguarding our manufacturing base and targeting the following priority sectors:
  - a. Creative and Digital Industries
  - b. Advanced Manufacturing and Materials
  - c. Environmental and Energy Technologies
  - d. Construction Industries
  - e. Business, Professional and Financial Services; and
  - f. Low Carbon Industries"

Policy CS33 'Presumption in Favour of Sustainable Development' states that "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

The NPPF at Paragraph 18 states: "The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future." Paragraph 19 adds: "The Government is committed to ensuring 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.”

The application site is located within an established industrial and business area that is allocated for Mixed Use purposes (MU36) in the adopted UDP, as set out in Policy EC5.1 ‘Land identified for Mixed Use development’, and this includes B1, B2 and B8 uses as being acceptable in principle. It is considered that the proposed industrial and storage development would allow for the economic development of the Borough and secure more jobs locally which is to be welcomed and is fully supported by the aforementioned policies. As such, it is considered that the principle of the development is fully in accordance with Core Strategy Policies EC5.1 ‘Land identified for Mixed Use development’ of the UDP as well as CS9 Transforming Rotherham’s Economy and CS33 Presumption in Favour of Sustainable Development of the Core Strategy and the guidance set out in the NPPF.

#### Appearance:

In assessing the design of the proposed building in relation to the existing property and the surrounding area, Core Strategy Policy CS28 – Sustainable Design states that: “Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Design should take all opportunities to improve the character and quality of an area and the way it functions.”

The NPPF 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.”

It is considered that the design of the buildings is utilitarian and functional in appearance and commensurate with the proposed use and is located within an established industrial area with buildings of similar design and appearance.

It is noted that the proposals include the landscaping of the site around the edges of the site. This is considered to provide an attractive appearance to Outgang Lane, which is the most visually prominent vantage point of the site as it is one of the main approach roads to Dinnington. It is noted that the Council’s Landscape Design Department raise no major objections to the landscaping plan. As such, it is considered that the overall appearance of the development would be acceptable and would visually enhance the area by the increased landscaping which would be provided around the edges of the site. Overall it is considered that the design of the proposals is acceptable and would not harm the character and appearance of the surrounding area. Taking account of this, the proposals are therefore considered to be in accordance with Policy CS28 – Sustainable Design of the Core Strategy and the guidance set out within the NPPF.

#### Impact on neighbouring properties:

With regard to neighbour amenity, 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...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.”

The NPPF, at paragraph 17 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 further goes on to state 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 buildings.”

The NPPF further notes at paragraph 123 that: “Planning policies and decisions should 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;
- Recognise that development will often create some noise and existing businesses wanting to development in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”

The Council’s Neighbourhoods (Environmental Health) raised no objections to the proposals in terms of harm to the amenity of neighbouring residents.

It is noted that there are no residential properties close to this site though planning permission exists for the residential development of a site approximately 46 metres from the edge of the site to the north east, across Outgang Lane. However, the approved layout has dwellings set further away from this site.

It is considered that at this distance the proposed development would not harm neighbouring residential amenity.

However, they recommended that an informative be appended to any planning permission granted in respect of the development relating to the control of working practices during the construction phase. This is considered reasonable and it is recommended that this informative be appended to any planning permission granted for the development.

In conclusion it is considered that the proposed development would not lead to any significant loss of amenity by virtue of noise, air quality or land pollution impact arising from the proposed development. As such, it is considered that the proposals would not have a detrimental impact on the amenity of neighbouring occupiers.

Highway impact

**Policy CS14 'Accessible Places and Managing Demand for Travel' states that "The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behaviour. Accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by: (amongst other things)**

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- b. Enabling walking and cycling to be used for shorter trips and for links to public transport interchanges.
- c. Set thresholds where existing and future employers and institutions will need to adopt Travel Plans or Area Travel Plans as part of a programme of sustainable transport promotion.
- d. The use of maximum parking standards for non-residential developments aimed at reducing the number of car trips to and from them.
- e. Adopting car parking policies for vehicles and bicycles in accordance to national guidelines that support and complement public transport and the introduction of sustainable travel modes.
- f. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed.

The Council's Transportation Unit have stated that the submitted Transportation Statement has used acceptable methodology and adequately demonstrates that the traffic generated from the development would remain within the capacity of the local network.

The proposed car parking (88 No. spaces of which 9 will be accessible spaces) accords with the Council's maximum parking standards. 24 No. covered cycle parking spaces are proposed which also accords with the Councils standards.

Pedestrian accessibility was considered to be adequate and public transport to the site reasonable. The Travel Plan submitted with the application was considered to be somewhat generic and will require modification therefore a condition is recommended to be attached to any planning permission granted that requires the submission of an amended Travel Plan.

No objections were raised to the proposal from a highway safety aspect subject to recommended conditions relating to the provision of the car parking areas being laid out in accordance with the submitted plan and the vehicle parking areas being suitably hard surfaced.

It is considered that the proposed development would not have an adverse impact on highway safety or the capacity of the local road network. Therefore it is considered that the development is acceptable in highway terms subject to the recommended conditions.

## Conclusion

It is considered that the proposed industrial and storage buildings would be acceptable in terms of their appearance and impact on the surrounding area and would not have an adverse impact on neighbouring industrial units or on the surrounding highway network.

It is therefore recommended that the application be granted subject to the imposition of the suggested conditions as set out below.

## 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 35529/011)(received 07/08/2014)

(Drawing numbers 35529/012)(received 07/08/2014)

(Drawing numbers 35529/013)(received 07/08/2014)

(Drawing numbers 35529/014)(received 07/08/2014)

(Drawing numbers 35529/015)(received 07/08/2014)

(Drawing numbers 4001)(received 07/08/2014)

Reason

To define the permission and for the avoidance of doubt.

03

The external surfaces of the buildings hereby approved should be constructed in accordance with the materials set out on the approved plans 35529/013 and 35529/014 unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interests of visual amenity in accordance with Policy CS28 'Sustainable Design' of the Core Strategy.

04

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.

05

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.

06

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

Reason

In order to promote sustainable transport choices.

07

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.

08

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

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'.

09

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

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.

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

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

#### 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'.

#### Informative

##### **Control of working practices during construction phase**

*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) 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.
- (ii) 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.

**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.