

## PLANNING REGULATORY BOARD

Date:- Thursday, 10 March 2016 Venue:- Town Hall, Moorgate Street,  
Rotherham. S60 2TH

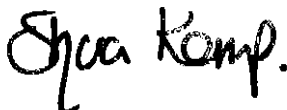
Time:- 9.00 a.m.

### AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence (substitution)
4. Declarations of Interest (Page 1)  
*(A form is attached and spares will be available at the meeting)*
5. Minutes of the previous meeting held on 18th February, 2016 (Pages 2 - 5)
6. Deferments/Site Visits (information attached) (Pages 6 - 7)
7. Development Proposals (Pages 8 - 68)
8. Report of the Director of Planning Regeneration and Culture (Pages 69 - 72)
9. Updates
10. Date of next meeting - Thursday, 31st March, 2016

### Membership of the Planning Board 2015/16

Chairman – Councillor Atkin  
Vice-Chairman – Councillor Tweed  
Councillors Astbury, Cutts, Godfrey, Khan, Lelliott, Middleton,  
Pickering, Roche, Rosling, Sims, Smith, R.A.J. Turner and Whysall.



**SHARON KEMP**  
Chief Executive

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**PLANNING 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**  
**Thursday, 18th February, 2016**

Present:- Councillor Atkin (in the Chair); Councillors Astbury, Cutts, Khan, Lelliott, Middleton, Pickering, Sims, R.A.J. Turner, Tweed and Whysall, with Councillor Beaumont (as substitute for Councillor Godfrey).

Apologies for absence were received from Councillors Godfrey, Sansome and Smith.

**82.           DECLARATIONS OF INTEREST**

There were no Declarations of Interest made at this meeting.

**83.           MINUTES OF THE PREVIOUS MEETING HELD ON 28TH JANUARY, 2016**

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday, 28th January, 2016, be approved as a correct record for signature by the Chairman.

**84.           DEFERMENTS/SITE VISITS**

There were no site visits nor deferments recommended.

**85.           VISIT OF INSPECTION - OUTLINE APPLICATION FOR THE ERECTION OF UP TO 64 DWELLINGHOUSES WITH DETAILS OF ACCESS AT LAND AT BLUE MANS WAY, CATCLIFFE FOR LANGTREE GROUP PLC (RB2014/1342)**

Further to Minute No. 78(2) of the meeting of the Planning Board held on 28th January, 2016, Members of the Board made a visit of inspection to the above site, the subject of this application. (Ward representatives Councillors Buckley and Roddison were also in attendance).

Consideration was given to the report of the Director of Planning, Regeneration and Culture concerning the application for outline planning permission for the erection of up to 64 dwellinghouses with details of access at land at Blue Mans Way, Catcliffe for Langtree Group plc (RB2014/1342).

In accordance with the right to speak procedure, the following people attended the meeting and spoke about this application:-

Mr. D. Rolinson (on behalf of the applicant Company)

Mr. N. Howarth (objector)

Mrs. G. Peter (objector)

Mr. D. Key (objector)

Councillor A. Roddison (Ward representative, opposing the development)

Resolved:- That application RB2014/1342 be refused for the reasons set out in the submitted report.

**86. DEVELOPMENT PROPOSALS**

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

In accordance with the right to speak procedure, the following people attended the meeting and spoke about the application listed below:-

- Extension to existing day care nursery and temporary siting and use of portable classroom at Railway Children Day Care Nursery, Wood Lane, Treeton for Mr. R. Saddiq (RB2015/1422)

Mr. A. Spratt (on behalf of the applicant)

- Conversion of barn to dwelling (Use Class C3) at The Barn, Dalton Lane, Dalton for Mr. G. Thacker (RB2015/1425)

Mr. J. Wright (objector)

Mrs. C. Guest (objector)

Mr. D. Brown (objector)

(2) That application RB2015/1422 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

(3)(a) That, with regard to application RB2015/1425, the Council shall enter into a Legal Agreement with the developer under Section 106 of the Town and Country Planning Act 1990 to secure that the building shall remain in the applicant's ownership for a minimum period of five years following the grant of planning permission, otherwise a £10,000 affordable housing contribution becomes payable; and

(b) That, subject to the signing of the Section 106 Legal Agreement, planning permission be granted for the proposed development subject to the conditions set out in the submitted report.

**87. COURTESY CONSULTATION FROM DONCASTER MBC - ERECTION OF ONE WIND TURBINE AND ASSOCIATED INFRASTRUCTURE AT CONISBROUGH GRANGE FARM, COMMON LANE, RAVENFIELD (RB2015/1023)**

The Director of Planning, Regeneration and Culture submitted a report concerning the courtesy consultation from Doncaster MBC in respect of the application for planning permission for the erection of a 48.01 metres high wind turbine and associated infrastructure at Conisbrough Grange

Farm, Common Lane, Ravenfield (and situated within the Doncaster Borough area).

The report stated that the type of turbine had not been stipulated and the applicant was proposing a condition that would require the exact details of the turbine to be considered after the application had been determined, to provide the most efficient turbine at the time. As the type of turbine had not been stipulated, no information had been submitted about the exact colour of the turbine or the hub height. Neither had any details been provided of the exact appearance of the wind turbine, nor its operational electricity generating capacity. The proposal also included a turbine foundation and a hardstanding area for erecting a crane, access tracks and a small external turbine transformer meter housing.

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

(2) That Doncaster MBC be informed that this Council raises objections to the proposals in relation to the lack of information available to demonstrate clearly the impact on the local landscape or on heritage assets within the Rotherham Borough area, close to the application site.

**88. COURTESY CONSULTATION FROM DONCASTER MBC - ERECTION OF ONE WIND TURBINE TO REPLACE EXISTING AT LAND ADJACENT TO RIDGEWOOD FARM, COCKHILL FIELD LANE, BRAITHWELL, DONCASTER (RB2015/1092)**

The Director of Planning, Regeneration and Culture submitted a report concerning the courtesy consultation from Doncaster MBC in respect of the application for planning permission for the erection of one wind turbine (maximum height 36.6 metres) to replace existing at land adjacent to Ridgewood farm, Cockhill Field Lane, Braithwell, Doncaster (RB2015/1092). The report stated that the application is for a replacement of the existing broken wind turbine on the site which Doncaster MBC had previously approved under a planning permission in 2009. The proposed new wind turbine would increase the hub height to 25.5 metres and the rotor tip height of 36.6 metres, approximately 40% taller than the existing wind turbine. It was noted that the correct highway route of the components to the application site had not yet been submitted to this Council for consideration.

Members concluded that there would be no material unacceptable adverse impacts on the visual and residential amenities of residents within the Rotherham Borough area, arising from this proposal, or that it would create any highway safety issues.

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

(2) That Doncaster MBC be informed that, whilst this Council has no objections to this application for planning permission, this Council requests details of the actual route for delivering the wind turbine

components to the application site, for further consideration.

**89. DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2015/16**

Further to Minute No. 47(3) of the meeting of the Planning Board held on 8th October, 2015, consideration was given to a report of the Director of Planning, Regeneration and Culture detailing the current performance of the Development Management Team, after the health check undertaken during October 2015 by the Local Government Association, as required by the Government-appointed Inspectors. The report highlighted:-

(a) this Council's Development Management Service is currently within the top ten highest performing local authorities in England (source : analysis by the Planning Advisory Service of statistical information provided by local authorities);

(b) the likelihood of the introduction of planning fee refunds, should applications for planning permission not be determined within twenty-six weeks, as part of the Central Government's further planning reforms; and

(c) the Government's Housing and Planning Bill includes provision of the processing of applications for planning permission to be undertaken within a competitive environment (eg: by neighbouring local authorities and by private sector companies), although the decision-making aspect is to remain with the Local Planning Authority.

Members of the Planning Board placed on record their appreciation of the work of the Development Management Team. It was noted that performance reports will be submitted to future meetings of the Planning Board at regular intervals.

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

**90. UPDATES**

Members were reminded of the arrangements for a training session about planning and development issues to be held at the Town Hall, Rotherham, on Thursday afternoon, 18<sup>th</sup> February, 2016.

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL****PLANNING 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 Regeneration and Culture 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 Regeneration and Culture.
- 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 three 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 THURSDAY 10 MARCH 2016**

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.

**INDEX PAGE**

<b>RB2013/0307 Retention of a mobile home and a portacabin at North Farm Piper Lane Aston for Mr Foster</b>	<b>Page 9</b>
<b>RB2015/1298 Erection of 1,745 m2 retail unit (use class A1) with associated car parking, landscaping &amp; associated works at former Council Depot Site Hamilton Road Maltby for Harbridge (Maltby) Ltd</b>	<b>Page 22</b>
<b>RB2015/1469 Erection of 6 No. semi-detached dwellinghouses &amp; 1 No. detached dwellinghouse at land at 2 Whitehill Lane Brinsworth for Mr J Brightmore</b>	<b>Page 51</b>

<b>Application Number</b>	<b>RB2013/0307</b>
<b>Proposal and Location</b>	<b>Retention of a mobile home and a portacabin at North Farm, Piper Lane, Aston, S26 2EF</b>
<b>Recommendation</b>	<b>Refuse</b>

**This application is being presented to Planning Board as the proposal does not fall within the scheme of delegation.**



### **Site Description and Location**

North Farm is a modern farm complex located off Piper Lane on the outskirts of Aston. The farm contains a number of large modern agricultural buildings. The remainder of the land is used for the parking of farm vehicles. The site is currently serviced by an unmade track, linking to Piper Lane.

### **Background**

RB2000/0627 - Outline application for erection of agricultural workers dwelling - REFUSED

RB2001/0492 - Outline application for the erection of agricultural workers dwelling (Re-submission of RB2000/0627) – REFUSED for the following reasons:

01

The site of application is within the Green Belt wherein only development essential for the use of agriculture will be permitted unless there are exceptional circumstances. It is considered that there is insufficient agricultural justification at the present time and that the proposal is therefore in conflict with Policy ENV1 'Green Belt', and ENV1.2 'Development in Areas of High Landscape Value', of the Unitary Development Plan.

02

It is considered that the proposed means of access by way of its location in a residential area, will result in additional extraneous traffic in the existing cul-de-sac, to the detriment of residential amenity, and will thereby be in conflict with Policy HG1 'Existing Housing Areas', of the Unitary Development Plan.

RB2004/1443 - Use of land for siting of caravan – REFUSED for the following reason:

01

The site of application is within the Green Belt wherein only development essential for the use of agriculture will be permitted unless there are exceptional circumstances. It is considered that there is insufficient agricultural justification at the present time, and that the proposal is therefore in conflict with policy ENV 1 Green Belts, of the adopted Unitary Development Plan and PPS 7, Sustainable Development in Rural Areas.

A subsequent appeal against the refusal was ALLOWED CONDITIONALLY, for a temporary period of 3 years. Following the end of this period an Enforcement Notice was served in June 2011 requiring the removal of the mobile home from the site. An appeal against the Enforcement Notice was subsequently dismissed in December 2011.

RB2015/0433 - Prior Approval for proposed change of use of agricultural building to 2 No. dwellinghouses (use class C3) – REFUSED

Reason

The Council considers that the proposed development does not comprise permitted development under Schedule 2, Part 3, Class Q, of The Town and Country Planning (General Permitted Development) (England) Order 2015. Therefore the application should be refused and there is no further requirement for the Council to determine whether prior approval is required for the matters listed in Class Q.

The permitted development criteria that the development fails to comply with are:

Class Q (a) Since the proposed open sided structure with no walls is not considered to represent a building for the purposes of a conversion to residential.

Class Q (b) Since the proposed building works go beyond what the Council consider would be reasonably necessary to 'convert' the building to a dwellinghouse.

RB2015/1388 - Prior approval for proposed change of use of agricultural building to dwelling house (use class C3) – REFUSED

Reason

01

The Council considers that the proposed development does not comprise permitted development under Schedule 2, Part 3, Class Q, of The Town and Country Planning (General Permitted Development) (England) Order 2015 for the following reason:

Class Q (b) - The modern steel clad agricultural building is not capable of functioning as a dwelling for the purposes of a conversion to residential as the proposed building works go beyond what the Council consider would be reasonably necessary to 'convert' the building to a dwellinghouse.

The proposed development does not comply with the limitations or restrictions applicable to development permitted by Class Q in that the proposed building works, including significant demolition proposed, would be contrary to Q1 (i).

## **Proposal**

The applicant seeks permanent permission for the retention of the existing mobile home for use as an agricultural worker's dwelling and an associated portable building. The portable building is used as a utility room in conjunction with the mobile home to store the washer, dryer and freezer. The application proposes access via Stanley Grove, although currently the applicant seems to access the site via Piper Lane.

The applicant has submitted the following supporting documents:

### Design & Access Statement

- The applicant has been employed on this holding in agriculture for all his working life and this has continued despite difficulties such as the breaking up of the partnership and problems of disease and security. His lifelong commitment to farming has never changed.
- As noted above this is a mixed farm involving the rearing of livestock (cows and pigs) and also growing crops (oil seed rape, wheat, and grass for grazing, hay and silage). The types of livestock have changed following the death from viral pneumonia of 11 suckler calves on the holding. The current operations involve the rearing and breeding of outdoor pigs (these are brought into the buildings to farrow) and the rearing of adult replacement heifers for a local dairy farmer. These livestock are not as susceptible to disease as the calves. It is recognised that an on site presence is not necessary for overseeing the arable component of the business but the livestock makes it essential for someone to be present on the site for 24 hours per day.
- A business plan prepared by Slaney and Co in June 2012 shows that the farm is only producing a small profit in the year ending 30/11/12 mainly due to the costs of setting up the pig herd, but that the net profit will reach in excess of £28,000 by the end of 2013 and in excess of £29,000 by the end of 2014.
- It is clear that there is no other available accommodation on the holding and that the original farmhouse was sold in circumstances outside of the applicant's control. It is also clear that the siting of the agricultural buildings at a distance away from the edge of the settlement was necessary in order to avoid any disamenity to neighbours.
- While it is accepted that by definition, any structure would cause harm to the open character of the Green Belt the site of the mobile home is well screened from public views. It is located at the bottom of a shallow valley

with hedgerows on two sides. It is also in close proximity to the agricultural buildings and has little additional impact on the appearance of the area. The siting of the mobile home has never been raised as an issue in the Council's decisions on the structure.

- The existing access to the site is via an unmade track that leads from Piper Lane. This is used by farm traffic and to access the mobile home. The width of the track varies from 3 metres to 7 metres and allows room for vehicles, and for vehicles and pedestrians to pass in the wider sections. No concerns have been raised at the standard of the junction of Piper Lane and Worksop Road.

### Business Plan

The applicant has submitted a business plan setting out that the farm will achieve a net profit of £29,673 by 2014.

The Council has requested an updated business plan, but the applicant has not provided one.

### Vet's Letter

- Mr Foster was rearing calves from mixed sources at North Farm, but experienced a major outbreak of calf pneumonia that led to considerable losses amongst his stock and a great deal of medical treatment that made this enterprise uneconomical. We advised him not to continue with calf rearing due to the inherent risks of this form of farming.
- I understand Mr Foster has now changed to rearing adult replacement heifers for a local dairy farmer and rear outdoor pigs. We have advised him these are less likely to suffer serious health problems than calf rearing on his farm.

### Letter from Lawn Farms

- I have come to an agreement with Chris Foster for him to feed, water and rear all our in calf heifers from the age of 15 months to within 2 weeks of calving when they will be returned to Lawn Farms for calving and introduction of the milking herd. This should amount to between 25 and 30 head per year.

### **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 and is within an Area of High Landscape Value 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'

CS28 'Sustainable Design'

CS33 'Presumption in favour of Sustainable Development'

Unitary Development Plan 'saved' policy(s):

ENV1.2 'Development in Areas of High Landscape Value,'

### **Other Material Considerations**

Interim Planning Guidance - 'Development in the Green Belt'. This has been subject to public consultation and adopted by the Council on 3<sup>rd</sup> March 2014.

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 notes that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. The Rotherham Unitary Development Plan was adopted in June 1999 and the NPPF adds that in such circumstances 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 policy(s) 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 along with individual neighbour notification letters to adjacent properties. No letters of representation have been received.

### **Consultations**

Streetpride (Transportation Unit): Recommends improvements to the access up to Stanley Grove.

Streetpride (Drainage): Concerns regarding the on site drainage and sewage arrangements. Recommends appropriately worded condition.

## Appraisal

The application site is located within the established Green Belt and therefore the determining issues to be considered in the application are:

- The principle of the development, including whether inappropriate development in the Green Belt.
- The appearance of the development and the impact on the Area of High Landscape Value and openness of the Green Belt
- Whether the property will harm neighbouring amenity.
- Whether the caravan is located in a sustainable location
- Highway issues
- Drainage issues
- Whether very special circumstances exist to justify the inappropriate nature of the development, and any other harm.

### The principle of the development, including whether inappropriate development in the Green Belt:

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

Paragraph 89 of the NPPF states: "A Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- 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 in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- 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."

Paragraph 90 adds 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."

The NPPF expresses a general presumption against inappropriate development in the Green Belt and sets out the specific types of development which may be permitted in the Green Belt. The use of land to site portable buildings does not fall within the scope of the specific list of exceptions set out in paragraphs 89 and 90 and is therefore inappropriate development. By definition, the proposal would therefore be harmful to the Green Belt and in conflict with the NPPF.

The Inspector dealing with the previous Enforcement Notice appeal assessed the development as the use of land for the siting of the mobile home. He concluded that: "An outbuilding nearby is also used for residential purposes and the area around the vicinity of the caravan appears to be used as a garden, due to the layout of outdoor furniture and other domestic paraphernalia. When the bulk and size of the caravan and outbuilding are taken together, the development reduces the open aspect of this part of the Green Belt. The residential use represents urban sprawl and encroachment into the countryside, which conflicts with one of the purposes for designating land within the Green Belt. That is a serious planning objection. I conclude that the development constitutes inappropriate development in the Green Belt."

Consequently the development would be inappropriate development in the Green Belt. Therefore very special circumstances have to be demonstrated to overcome the harm caused by way of the inappropriateness of the development, and any other harm, having regard to the issues discussed in more detail below.

The appearance of the development and the impact on the Area of High Landscape Value and openness of the Green Belt:

Core Strategy Policy CS28 '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 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.

Policy ENV1.2 'Development in Areas of High Landscape Value,' states that: "Development other than agriculture will only be allowed where it will not result in a significant and permanent adverse impact on the landscape and adds that strict control will be exercised over any development that does take place to ensure that the visual character of these areas is not affected."

The NPPF notes at paragraph 109 that: "The planning system should contribute to and enhance the natural and local environment by...protecting and enhancing valued landscapes, geological conservation interests and soils"

NPPF, Section 9 'Protecting Green Belt Land' at paragraph 79 states: "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".

The proposed caravan and portable building are of a relatively poor visual quality that would not normally be allowed on a permanent basis, as applied for by the applicant in this instance, and erode the openness of the Green Belt in this location, as noted by the Inspector dealing with the Enforcement Notice appeal. Whilst the buildings are relatively well screened, they have an urbanising effect on the landscape, with associated comings and goings as well as associated domestic paraphernalia.



As such the Council considers that the caravan and portable building are of utilitarian appearance and have a detrimental impact upon the openness of the Green Belt and the character of this Area of High Landscape Value, contrary to UDP Policy ENV1.2 'Development in Areas of High Landscape Value', CS28 'Sustainable Design' and the advice in the NPPF.

Whether the caravan is located in a sustainable location:

Core Strategy Policy CS33 'Presumption in favour of Sustainable Development' states "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. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise".

The definition of "sustainability" as set out within the NPPF is: "ensuring that better lives for ourselves do not mean worse lives for future generations". It also makes reference to five guiding principles of sustainable development; "living within the planet's environmental limits, ensuring a strong, healthy and just society, achieving a sustainable economy, promoting good governance and using sound science responsibly".

The appeal site is situated in open countryside beyond the confines of Aston. Consequently, while it may be appropriate for a farm worker to live on the site, general occupancy accommodation is not considered to be appropriate in this location, having to travel by car for the majority of the day-to-day needs. It is therefore concluded, the application site is not a suitable location for general residential development and that the proposal would be detrimental to the environmental dimension of sustainable development identified in the Framework. It would also conflict with the aims of paragraph 55, which seeks, among other things, to avoid new isolated homes in the countryside, as well as Policy CS33.

The applicant argues that the caravan is required in connection with the farming activities that take place on the site and this matter is discussed further below.

Whether the property will harm neighbouring amenity:

With regard to neighbour amenity, 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."

In this case, as the proposed caravan will be set within its own grounds and set well away from any neighbouring properties, it therefore does not create any overlooking of neighbouring properties. As such the caravan is not considered detrimental to neighbouring amenity.

### Highway issues

The applicant indicates that the site is accessed via Stanley Grove. As part of the original permission approved at appeal, the applicant was required to upgrade the access to an acceptable standard. This has not taken place and the applicant appears to use the existing track linking to Piper Lane. Nevertheless the access off Stanley Grove is considered appropriate, subject to a condition upgrading the access, within three months of the date of any permission.

### Drainage issues

The applicant has indicated that surface water runs off the roofs directly onto the ground and that the Environment Agency has agreed to the on site sewage treatment, discharging directly into the watercourse. A relevant condition could therefore be attached to any approval to ensure adequate drainage and sewage arrangements, if the caravan was to be granted as a permanent building.

### Whether very special circumstances exist to justify the inappropriate nature of the development, and any other harm.

Paragraph 87 of the NPPF states 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 states "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 application site is within open countryside where new housing should be avoided in accordance with paragraph 55 of the NPPF unless there are very special circumstances; one of which is the essential need for a rural worker to live permanently at or near their place of work in the countryside. The Council's Interim Green Belt Guidance states that it will be "necessary to demonstrate a functional need for the dwelling and that the business which it supports is financially stable to justify a permanent dwelling. Where the dwelling is to support a new business venture, it may be more appropriate to provide temporary accommodation in the short term until the business is established and the need for a permanent dwelling proven."

This Guidance reflects that set out in the former PPS7 Annex A. Whilst PPS7 (Sustainable Development in the Rural Areas) has been superseded by the NPPF the following general principles and tests, against which proposals for temporary agricultural dwellings are considered, generally still apply:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need
- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;

- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.

These tests are addressed in detail below:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions).

The Inspector dealing with the previous planning appeal (RB2004/1443) noted that the applicant had sold a nearby residential property to fund the construction of new agricultural buildings on the farm. The appellant also at the time submitted a detailed plan demonstrating how the business would progress, including the expansion of cattle up to 180 cows. The Inspector concluded “to my mind, whilst these remain intentions for the future, they provide a reliable indication that the enterprise is being planned on a long term basis.”

Today only limited agricultural activity appears to be taking place on site, with evidence of equestrian activity as well. Indeed in the past year the applicant has applied unsuccessfully to turn two of the agricultural buildings on the farm into dwellings, under the new prior approval planning provision. This would imply that the buildings are no longer required and that the rural activity on site is limited. No up-to-date information has been submitted to demonstrate the longer term proposals to invest in new agricultural buildings.

As such the Council considers that the applicant has not demonstrated an ability to develop the enterprise, and if anything in recent years the agricultural activity has declined.

- (ii) functional need.

The Inspector dealing with the previous planning appeal (which allowed the temporary accommodation on site) considered that the applicant had demonstrated an essential need for the caravan on site, due to agricultural activity on site at that time. Since the original temporary permission some 10 years ago the agricultural activity on site appears to have been reduced, with little notable current activity.

The Inspector dealing with the Enforcement Notice appeal noted that: “Since the previous appeal, there has been a considerable reduction in livestock. For example, the breeding ewes, store lambs and laying hens were removed from the enterprise and the amount of cattle was reduced because of theft and disease. The vegetable production also ceased and so the whole enterprise has failed to materialise. Presently, the enterprise consists of arable farming, about 25 cattle and 55 pigs. The aim is to establish a herd of around 17 cows and increase the number of sows to around 100. On the basis of information contained in the industry-recognised reference book ‘John Nix’s Farm Management Pocketbook,’ the appellant’s agricultural appraisal indicates that 2,160 piglets would be produced annually. Consequently, the nature of the enterprise would be materially and significantly different to that considered by the previous Inspector in 2006.”

As noted above the applicant has actively sought the conversion of agricultural buildings to residential, which implies they are not required for agriculture. In addition the 2011 proposal proposed that up to 2,160 piglets would be produced annually at the farm, although this has not materialised. Indeed currently there appears to be little evidence of pig rearing at the site and the primary activity appears to be livery, unrelated to agriculture. No information has been submitted to demonstrate why accommodation is required on site in relation to any rural activities that take place. For the reasons outlined above it is therefore considered that an essential functional need can no longer be demonstrated.

(iii) clear evidence that the proposed enterprise has been planned on a sound financial basis.

The Inspector dealing with the previous planning appeal noted in his approval that: "granting planning permission for temporary residential accommodation would give the appellant the opportunity to demonstrate that the holding is financially viable and that the plans for developing the various enterprises have come to fruition".

The previous Enforcement Notice appeal Inspector stated that: "The appellant's own agricultural expert, however, conceded that accounts for the ongoing enterprise show the business is on the margins of profit and loss, and that it was profitable for at least one year. On the other hand, documentary evidence to support such assertions, or information showing income and expenditure to date, was not submitted..... the quantum of the evidence does not show that the enterprise would materialise within a reasonable period and that it is financially sound and has a clear prospect of remaining so, because the budgets are incomplete and unrealistic. Therefore, the enterprise is not financially sound and fails to meet with the financial tests."

At the time of the submission of the current application the submitted business plan indicated a profit of only £1,757 year ending 2012. As such, between the original temporary approval in 2006 and the current application the applicant has failed to demonstrate over a period of 6 years that the farm is financially viable to support an agricultural worker's dwelling. The submitted business plan indicated that by year end 2014 the farm would achieve a profit of £29,673.

A further 3 years has passed during which time the Council has requested updated accounts to ascertain whether this has been achieved. The applicant's agent has failed to provide updated accounts and stated that: "there is really no further information we can submit in terms of the economic position. All we can add is that the farm does operate as a working farm and that the Fosters family lifestyle given their limited outgoings is supported by the farm. ....they have existed in this situation for around 8 years now with the farm continuing to operate. We can only request you make the decision for the application on this basis."

This above statement would imply that the projected profit of £29,673 has not been achieved. Considering the limited activity on site it is difficult to see where any income stream could be achieved to create even a modest farm income. It is therefore clear that the farm is not a sound financial business and that a permanent agricultural worker's dwelling on site cannot be justified.

(iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.

The farm itself is located close to Aston Village and a number of properties on Stanley Grove back onto the applicant's land. These dwellings would appear appropriate for use by the applicant and are within a short distance of the farm buildings. Over the past 10 years a number of dwellings have been for sale at reasonable asking prices between £100,000 & £150,000. The applicant has not demonstrated why these properties (within a short distance of the farm) have not been considered as an alternative to the caravan.

The previous Enforcement Notice appeal Inspector stated that: "The evidence does not suggest that this option (alternative accommodation) has been adequately explored or examined, because alternative accommodation is available and suitable within the vicinity of the site."

(v) other normal planning requirements, e.g. on siting and access, are satisfied.

As noted above, it is considered that the utilitarian appearance of the mobile home and portable building are not appropriate on a permanent basis in this Area of High Landscape Value.

## **Conclusion**

The proposed development would constitute inappropriate development in the Green Belt that would have a detrimental impact on the openness of the Green Belt in this location in conflict with Policy CS4 'Green Belts' of the adopted Core Strategy and relevant paragraphs of the NPPF. Furthermore, the utilitarian appearance of the caravan and portable building is considered unacceptable for permanent structures in this sensitive Area of High Landscape Value. It is further considered that no justification has been provided to allow a rural worker's dwelling on the site, and that a general occupancy dwelling would not be sustainable in this location.

No very special circumstances have been demonstrated to clearly outweigh the harm to the Green Belt by way of inappropriateness, and other harm, and it is therefore recommended that permission be refused.

A valid Enforcement Notice exists relating to the siting of the mobile home and this can be enforced, and further enforcement action may be required in connection with the other portable building on the site.

## **Reason**

01

The caravan and portable building constitute inappropriate development in the Green Belt, by way of their use, size and location, and would have an adverse impact on the openness of the Green Belt in this location. No very special circumstances exist to clearly outweigh the harm to the Green Belt and the proposal is, therefore, in conflict with Core Strategy Policy CS4 'Green Belt' and the NPPF.

02

The caravan and portable building are of utilitarian appearance and undermine the open character of the area and cause harm to the Area of High Landscape Value within which the site is located. The proposed development would therefore be in conflict with UDP Policy ENV1.2 'Development in Areas of High Landscape Value,' as well as Core Strategy Policy CS28 'Sustainable Design' and the advice as set out within the NPPF.

03

The Council considers that the site is being used for general residential purposes and is not specifically required in connection with rural activities taking place at the site. The development is not considered to be in a sustainable location and would be contrary to Core Strategy Policy CS33 'Presumption in favour of Sustainable Development' and the NPPF.

#### POSITIVE AND PROACTIVE STATEMENT

Whilst the applicant entered into pre application discussions with the Local Planning Authority these identified that it is not possible to support a scheme of this nature nor would any amendments make it acceptable. The application was submitted on the basis of these discussions and it was not considered to be in accordance with the principles of the National Planning Policy Framework resulting in this refusal.

<b>Application Number</b>	<b>RB2015/1298</b>
<b>Proposal and Location</b>	<b>Erection of 1,745 m<sup>2</sup> retail unit (use class A1) with associated car parking, landscaping &amp; associated works at former Council Depot Site, Hamilton Road, Maltby S66 7NE for Harbridge (Maltby) Ltd</b>
<b>Recommendation</b>	<b>Grant subject to conditions</b>

This application is being presented to Planning Board as the floorspace for the proposed retail unit exceeds that within the Council's Scheme of Delegation.



### Site Description and Location

The site to which this application relates comprises a relatively level parcel of land totalling some 0.64 hectares in overall area and is bounded by Hamilton Road to the west and its junction with Muglet Lane to the south west. Directly across Hamilton Road is an MOT garage and a restaurant, with tennis courts, a bowling green and Coronation Park located beyond.

To the north of the site is the remainder of the Council depot site, with an existing established garage court along with residential development (Strauss Crescent) properties beyond. Playing fields for Maltby Craggs Junior and Infant Schools are set to the east of the site (the school buildings themselves are set northwards of these playing fields).

South of the site is the currently vacant and former Lantern Engineering premises with Muglet Lane and St Mary's Catholic Primary School located beyond.

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

## Background

The application site has recently been the subject of the following application:

RB2014/0319 – Outline application for demolition of existing depot and erection of residential development (all matters reserved except partial means of access to, but not within, the site) – Granted conditionally 05/06/2014.

As part of the site overlaps with that to the south, the following applications are further considered to be of relevance:

RB2014/0318 – Demolition of existing units and construction of new food store with car parking, landscaping & associated works – Granted conditionally – 05/06/2015

RB2015/0551 – Application to vary condition 02 (approved plans) imposed by RB2014/0318 (Demolition of existing units and construction of new food store with car parking, landscaping & associated works). – Granted conditionally 16/07/2015

This permission increased by approximately 13% the gross external floorspace of the approved store from 1,586sqm to 1,800sqm to allow toilets, locker room, external lobby and warehouse extension).

Further alterations as part of this application included: relocation of cycle parking to front of store; a reduction in car parking spaces from 97 to 94 spaces to facilitate a new vehicular and pedestrian access point to the north of the site (including improvements to the layout and vehicle manoeuvring within the site.); junction alignment alterations with Muglet Lane along with landscape alterations to facilitate the above.

RB2015/1197 – Demolition of existing units and construction of new food store with car parking, landscaping & associated works – Granted conditionally 29/10/2015

This permission increased by approximately 6% the gross external floorspace of the approved store from 1,800sqm to 1,924 in order to accommodate an enlarged warehouse / storage area.

Further alterations as part of this application included: removal of some landscaping to facilitate the enlarged warehouse / storage area; the relocation of cycle parking under the canopy to the front of store; a reduction in car parking spaces from 94 to 93 owing to visibility issues with existing bays; the installation of 200 solar panels on the roof; along with the reconfiguration of the store lobby to involve placing the main entrance centrally to the main elevation.

RB2016/0112 – Application to determine whether prior approval is required of the method of demolition and restoration of the site re: Demolition of buildings at the former Council Depot & Lantern Engineering premises – Granted 29/02/2016.

If demolition works are implemented this would negate the need for any further ecological work to be carried out under the current planning application as ecology issues are not a statutory consideration in the demolition prior approval process,



though this does not override the requirements of nature conservation protection under UK and EU legislation.

## Screening Opinion

The above applications on this site have previously been screened against the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as the development site exceeded 0.5 hectares in overall area. However since that time the threshold for screening such developments has been increased to sites with an area over 5 hectares. Therefore due to the size of the application site (0.64 hectares) this application does not meet the threshold, and does not require to be screened.

## **Proposal**

This application was originally for the following:

*Demolition of existing buildings and outline application for the erection of residential development with all matters reserved except for formation of access from Hamilton Road (plot A) and detailed application (plot B) for erection of 1745 m<sup>2</sup> retail unit (use class A1) with associated car parking, landscaping & associated works*

However, after negotiations with the applicant, the outline element for residential on the northern part of the existing Council depot site adjacent to Strauss Crescent has been omitted from the proposal. Therefore the application site has been reduced in size from 0.9ha to approximately 0.64ha, and the applicant is only seeking full planning permission for the erection of a retail unit and associated works on part of the overall site.

The application now proposes full planning permission for the erection of a 1,745m<sup>2</sup> retail unit (use class A1) with associated car parking, landscaping and additional works.

The site is roughly rectangular with an area of approximately 0.64 hectares and would be the southern portion of the existing wider Council Depot site, with the northern strip having been omitted from this scheme. The site has direct access onto Hamilton Road. Full permission is sought for the construction of a single storey flat roof retail store with associated car parking, landscaping and associated works which in summary include:

- Retail store (use class A1) comprising a sales area of 1,409sq.m with additional warehouse, staff and office facilities of 263sq.m, totalling 1,672sq.m gross internal area (1,745sq.m gross external area with outdoor canopy).
- The building would be 61m in overall length and ranging from 26 - 30m in overall depth; and between 5.3m and 6.7m in height. It would be constructed with contemporary finishes - part red brickwork / part dark grey horizontal cladding to main elevations with anthracite horizontal cladding and aluminium windows over sailed with a projecting canopy to denote the store entrance.
- New access point onto Hamilton Road sited some 20.5m from the junction of Hamilton Road with Muglet Lane having its centre point sited opposite the

existing MOT garage and restaurant businesses, and is further indicated to be provided with the appropriate visibility splays, radii and low level landscaping.

- On-site parking provision consisting of 95 spaces including 5 No. disabled bays and 2 No. parent and child spaces, and 10 No. cycle spaces (5 hoops).
- Service area (25m diameter) for HGV's
- Pedestrian and vehicular links from the already approved Aldi store along the site's southern boundary.
- Landscaping / planting areas along the site's north (partial), south, east and west boundaries and centrally within the main parking area, and adjacent to the site entrance.
- Proposed opening hours are in line with those already approved at the adjacent Aldi site i.e. 08.00 – 22.00hrs Monday to Saturday with the applicant noting that it is now common practice for retailers to operate standard Monday times on Bank Holiday Mondays and would not wish to be restricted in this respect. On Sundays the applicant wishes to operate in line with the current 6 hour trading restrictions anytime between 10.00 - 17.00hrs.
- Delivery times are indicated as being Monday (including Bank Holidays) to Saturday 07.00 - 23.00hrs and: 09.00 - 22.00hrs on Sunday.

The following supporting documents have been submitted with the application:

The Design & Access Statement (DAS):

The DAS comments that the proposal will provide local shopping facilities and job opportunities in the area. It further outlines details on the site, layout, appearance and access of the proposed development.

Planning and Retail Statement (PRS):

This document sets out that the potential occupier of the non-food retail store would be Home Bargains who are a discount retailer who tend to trade / locate alongside food discount retailers therefore creating potential linked trips.

Home Bargains business ethos identifies that primarily their comparison goods (approximately 75%) range comprises of health & beauty products, medicines, baby products, household products, limited clothing range, toys & games, pet foods, home furnishings & ornaments, and seasonal products. The remaining 25% is given over to ancillary food and drink items.

The PRS acknowledges that the site is located some 420 metres distance from Maltby Town Centre and therefore represents an out-of-centre location in retail planning terms and requires a Sequential Test. It adds that the primary catchment area for the proposed store is Maltby although secondary areas incorporate Hellaby to the west, Braithwell to the north, Dinnington and Woodsetts to the south and the extremities of Styrrup, Doncaster and Oldcotes to the east.

The PRS identifies as per the adjacent Aldi development application that the same four potential alternative sites within the Maltby catchment have been identified and re-assessed as part of the Sequential Test along with an additional site in Dinnington. However the PRS concludes there were no sequentially preferable sites

within the identified catchment area for a variety of reasons including, sites being unavailable and unsuitable due to size and constraints of the site and / or surrounding area.

In relation to the Impact Test, the applicant notes within the PRS that, as the development is over the 500sqm floor area threshold as set out under the Core Strategy, an impact assessment applies in this instance and has been carried out in proportion to the scale of the proposal. The PRS concludes there would not be a significant adverse impact on any existing stores or on Maltby Town Centre arising from the proposed store, and that linked trips between the consented Aldi store and the wider town centre of Maltby could benefit the overall community.

#### Statement of Community Involvement (SCI):

This SCI report sets out that a meeting was convened on 17<sup>th</sup> March 2015 between the applicant and Local Ward Members with general positive feedback given along with a discussion as to whether the offer of an informal contribution to play space could be further investigated. A formal pre-application meeting with planning, transportation and drainage officers of the Council on 17<sup>th</sup> April 2015 raised no major barriers to the re-development of this site.

The SCI report further notes that although no new resident information event was held to appraise Maltby residents of the current proposals, an updated newsletter was issued to all those who had previously attended / commented / expressed an interest in the site previously.

#### Transport Assessment (TA):

The submitted TA has assessed all contributory factors including the consented Aldi store, the proposed retail store (the subject of this application) along with a future residential development of up to eight dwellings on the remainder of the site.

The TA analysis suggests it is able to demonstrate that the proposed non-food retail store would provide an alternative shopping destination within Maltby, within walking destination of surrounding retailers and residential dwellings, and the proposed site is accessible by all modes of travel, with a high probability of linked trips to the existing retail units, found on Maltby's High Street.

The TA further advises in terms of the capacity assessments carried out that the results demonstrate that there is a negligible impact arising from combined developments in the 2013 and 2018 assessment years.

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

#### Travel Plan (TP):

The submitted TP primarily focuses upon staff travel and sets out measures, objectives and targets for reduced car usage and increased non-car transport usage, including modal split targets; the provision of Travel Plan Co-ordinator; the

provision of travel information; implementation and review timescale; and enforcement, sanctions and corrective/review mechanisms.

The measures contained within the TP note that it shall be implemented in accordance with the approved timescale i.e. the store opening, except where the monitoring evidence demonstrates that revised timescale/measures to achieve trip targets are necessary i.e. via an annual review.

### Bat Roost Potential Survey & Ecological Assessment (EA):

The submitted EA report identifies that the site is located close to potentially good foraging habitat for bats, with good connectivity between the site and surrounding countryside and wooded areas. Although no direct evidence of roosting bats was found during the survey, the building possessed various features which could be utilised by roosting bats during the active bat season.

The report recommends mitigation for the above in the form of a single precautionary emergence survey in order to assess the presence or likely absence of roosting bats in buildings with this level of potential.

The report additionally considers the site has very low ecological value, and as such its re-development will have a negligible impact on the ecology of the wider locality. It does however conclude that opportunities should be sought to use this re-development as an opportunity to enhance sites for wildlife where possible.

### Flood Risk Assessment (FRA) and Drainage Strategy (DS):

The submitted FRA and DS notes that Maltby Dike is located approximately 700m to the west of the site, and is entirely within Flood Zone 1 'Low Probability' as identified on the Environment Agency's indicative flood map. The FRA and DS notes that the site may be at risk of flooding from the existing drainage systems adjacent to the site, and recommends that the proposed ground levels are configured such that any flooding on site is directed away from the proposed building and that any finished floor levels are set 150mm above the average site level to ensure any floodwaters are directed away from the proposed building.

It further notes a sewer diversion is likely to be required for the existing surface water and combined sewers crossing the site. The sewer diversion should also make an allowance for the proposed surface water connection. SUDs techniques should be provided, where possible, to treat the surface water runoff from the site at source, prior to discharging into the surface water drainage network. Foul water flows from the site should discharge into the existing foul water sewer crossing the southern end of the site at an unrestricted rate.

### Noise Impact Assessment (NIA):

The submitted NIA includes details relating to ventilation and extraction for the proposed store and has adopted the principles previously applied for the adjacent Aldi store in relation to noise from new plant not exceeding existing background noise levels at noise sensitive boundaries to the north east and south by 5 dB(A) during the day and 3 dB(A) at night.

In re-assessing matters the report identifies that cumulatively no observed adverse effect or additional harm would occur at noise sensitive boundaries from fixed plant / machinery, car parking or vehicles using the service area to contravene existing background noise levels.

## Phase II Geo-Environment Report:

This notes a Phase I Geo-Environment Report has already been undertaken and should be read in conjunction with the report now submitted. The report suggests that a previous refuse tip / landfill site extends across the whole of the site with the main source of contamination identified as being these historic refuse / landfill uses along with the subsequent use of the site as a Council Depot.

The report concludes that the site remains contaminated but recommends a number of mitigation measures which include:

- Remedial capping including topsoil depths of 0.5m in commercial landscaping;
- Validation of imported soils and capping depths;
- Water supply pipes may need upgrading;
- Site is considered stable and no further mining investigation works required;
- Site is unsuitable for conventional foundations, therefore pile or vibro improvement stone columns are the most appropriate;
- Buildings need to be designed to mitigate against gas vapours spreading and monitored; and
- Disposal of surface waters by use of soakaways is not recommended (subject to appropriate testing).

## **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 Business use in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

- CS3 'Location of New Development'
- CS10 'Improving Skills and Employment Opportunities'
- CS12 'Managing Change in Rotherham's Retail Service Centres'
- CS14 'Accessible Places and Managing Demand for Travel'
- CS20 'Biodiversity and Geodiversity'
- CS21 'Landscape'
- CS27 'Community Health and Safety'
- CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):

- EC3.2 'Land identified for Business Use'

EC3.3 'Other Development within Industrial and Business Areas'  
ENV3.2 'Minimising the Impact of Development' ENV3.7 'Control of Pollution'  
ENV4.4 'Contaminated Land'

### **Other Material Considerations**

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

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

National Planning Policy Framework: The NPPF came into effect on March 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 neighbouring notification letters sent to 31 immediately surrounding properties.

Some 64 letters of support in relation to the proposals have been received from Maltby residents to which 55 of these take the format of standard letter stating: "*I am writing in support of the development proposals detailed above. Please keep me informed of the progress of this application.*" Residents are further invited to add additional comment and those comments submitted raise the following comments:

- The development will be of benefit to Maltby and provide better choice / variety of shops compared to the number of second hand, takeaways and charity shops currently.
- The scheme is what Maltby needs.
- This is just what this site needs – a good tidy up of this general dumping ground.
- This will provide much needed jobs / employment for local people and Maltby as a whole.

- It would be nice if the majority of these jobs could be given to Maltby people as unemployment is high now the mine closed.
- Looking forward to both stores opening soon.
- This will enable older residents to gain independence back by using local shops.
- This is a positive improvement and will improve life to Maltby's community.
- It will bring quality shops and affordable shopping to the area.
- This will enable disabled residents to access shops in their home town.
- Having these stores on the doorstep will mean less travelling to other places i.e. Rotherham.
- With all the shops closing down it is nice to see these being opened in their place.

The remaining 9 comments in support have been submitted via the Council's website and in summary do not raise any substantive issues to those raised as above.

There have been no Right to Speak requests

### **Consultations**

Streetpride (Transportation and Highways) Unit: Raise no objections subject to conditions.

Streetpride (Drainage): No objections subject to conditions relating to petrol interceptors, water drainage scheme and details of foul and surface water drainage being submitted at a later date.

Streetpride (Landscape Design): Have indicated that a standard landscape condition is appended as in all other respects the landscape scheme submitted was acceptable. In addition a boundary treatment condition is appended to secure the provision of a high quality treatment.

Neighbourhoods (Environmental Health): Have indicated there is potential for disamenity from noise and dust from the demolition of the existing depot and the construction of the commercial and residential development. However, subject to the standard construction informative and a conditions relating to store opening hours, lighting and the submission of details of mechanical ventilation or air conditioning / extraction plant before the building is brought into use.

Neighbourhoods (Contaminated Land): Raises no objections to the proposals subject to recommend conditions.

Neighbourhoods (Air Quality): Have no objections subject to the imposition of an appropriate condition relating to a Travel Plan.

Ecologist: Has noted that the development would involve the demolition of the existing buildings and whilst additional survey work in respect of bats would be required, the standard informative would suffice as the applicant is seeking to submit a prior notification for demolition which would negate the need for further bat work.

South Yorkshire Archaeological Service: No objections.

South Yorkshire Police Architectural Liaison Officer: Raises comment in regards to specifics relating to a number of security factors which need to be adhered to as part of the development and request these comments are forwarded on to the applicant with any decision issued.

South Yorkshire Mining Advisory Service: Raise no objections to the proposals provided that all works are undertaken in accordance with the mitigation measures as set out under the Phase II Site Investigation report.

South Yorkshire Passenger Transport Executive: Raise no objections to the proposals subject to the recommended conditions to ensure that the proposed enhancement to existing bus stop on Tickhill Road by way of a sheltered and lit seating facility is carried out, and to the retention of an appropriate Travel Plan.

Severn Trent Water: Raise no objections on drainage / sewage matters, subject to the recommended condition.

The Environment Agency: Raise no objections to the proposals on flooding grounds, subject to the recommended informative in regard to ensuring protection of groundwaters from contaminated land.

### **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 take into consideration in the determination of the application are

—

- The principle of the development
- Retailing issues
- Layout & design considerations
- Landscaping issues
- Transportation issues
- Ecology considerations
- General Amenity matters
- Drainage and Flood issues
- Land Contamination matters



The principle of the development

The site is allocated for Business use in the adopted UDP; however the site has an extant outline planning permission for residential use (RB2014/0319), and indeed it is proposed to allocate the site for residential purposes on the Sites and Policies Plan (September 2015). The adjoining former engineering site also has planning permission for the erection of an Aldi Supermarket.

The applicant indicates that having marketed the site, there is little interest in the residential market for development and is now proposing redevelopment for retail use, which would be in conjunction with the adjacent supermarket.

From a planning policy perspective it is disappointing that the site does not appear viable for residential development at the current time particularly given the recent grant of residential permission. Some evidence has been provided regarding the lack of interest for residential development at present. Whilst it is considered that the site could well present a viable development site in the future, it is accepted that the marketing information should be given reasonable weight in decision making regarding this application.

The issue of the loss of employment land was dealt with in the previous grant of planning and it is considered that the circumstances have not changed significantly so as to warrant any re-examination of this.

It is therefore concluded that the loss of employment land has been previously assessed and established that the loss is acceptable in this instance and would comply with 'saved' UDP Policies EC3.2 'Land identified for Business Use' and EC3.3 'Other Development within Industrial and Business Areas'. It is further considered that unlike the previous application which was solely for residential on the site, the current proposal will generate employment opportunities in the area.

In order to provide opportunities for the local workforce and in accordance with Policy CS10 'Improving Skills and Employment Opportunities' of the Council's adopted Core Strategy a condition is to be appended requiring the submission of a scheme indicating strategies to encourage and/or enable local people to access job opportunities arising from the development site.

Retailing issues

The applicants in their supporting documents state that the principle of retail on this site is established and acceptable given the permission for the adjacent Aldi foodstore. Officers are of the opinion that this is not the case, particularly as the proposed retail use is for a primarily comparison goods operator as opposed to a convenience goods operator, and as such the application in respect of retailing issues shall be assessed on its merits in line with relevant planning policy.

The applicant has provided a sequential test as required by the NPPF and the accompanying NPPG and Core Strategy Policy CS12 'Managing Change in Rotherham's Retail Service Centres'. The site is some 400m from Maltby town centre and around 450m from the prime shopping street at Maltby. As such the site is considered to be in an out of centre location. The applicant argues that the

emerging Sites and Policies document should be given weight, in that it would make this site edge of centre in terms of the proposed local centre designation at Muglet Lane. Indeed, if the applicant is to argue this case then it must also be accepted that the proposed residential designation in the Sites and Policies document should also be given weight. However, it is not considered that the Sites and Policies document is sufficiently advanced to give such weight to either position.

As such the site is rightly considered as an out of centre site. Notwithstanding this, the applicant has considered sequentially preferable site opportunities at Maltby, Wickersley and Dinnington. This is considered an appropriate catchment area. It is accepted that alternative sequentially preferable sites have been appropriately discounted and the impact test provided is acceptable.

The proposal includes a floorspace split of 75% for comparison goods and 25% of sales floor space for food retail, and a condition shall be appended to any approval stipulating this, as it will ensure the impact of the development is maintained.

In light of the above, the evidence provided meets the requirements of the sequential and impact test policies, and taking account of the marketing evidence provided, there are no objections to the proposed use in principle.

#### Layout and Design Considerations

Policy CS28 'Sustainable Design' states: "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...Development proposals should be responsive to their context and be visually attractive as a result of good architecture...Design should take all opportunities to improve the character and quality of an area and the way it functions."

The NPPF at paragraph 17, 56 and 64 details how the Government attaches great importance to the design of the built environment and how good design is a key aspect of sustainable development which should contribute to making places better for people. Furthermore development of poor design which fails to take the opportunities available for improving the character and quality of an area should be refused.

Furthermore, the NPPG states: "Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations," and that: "Good design responds in a practical and creative way to both the function and identity of a place." It further notes that good design should, amongst other things, enhance the quality of buildings and spaces.

The development has been located across the site to make best use of the existing level changes, with the scale of the development being in response to the surrounding context.

In regard to layout, this element has been informed by the design parameters existing on and around the site which include: site levels; location of adjacent

properties; the way in which the public can approach the site on foot, by bicycle and by car, ease of servicing for operational needs and format; and layout of the proposed Aldi foodstore site adjacent.

The store itself has been located towards the north-east corner of the site, with the building occupying the majority of the east and north elevations, with car parking and service areas occupying the remainder of the site. It is noted that it cannot be moved any further south due to underground sewers crossing the site. However, the position of the new building would act as a 'buffer' to the surrounding school facilities / properties located to the east and south of the site.

The orientation of the building will allow its main glazed sections to be visible from Hamilton Road and from within the car park located to the south, to create an active frontage. Furthermore, in regard to appearance, properties in the immediate area of the site vary in quality and materials with modern developments being simple in overall design using a palette of predominantly red brick and tiled roofs, older developments being predominantly brick, stone and render with tiled roofs, and commercial buildings opposite the site on Hamilton Road being a mixture of brick, metal cladding and render.

The main element of the proposed building is in red brick to match the existing character of the area with the introduction of dark grey, horizontal laid cladding, to create interest to the long elevations, large elements of shop front glazing together with an over sailing minimalist canopy and signage entrance feature line to signify the store entrance. The height of the store entrance feature has been raised and the piers clad in horizontal Anthracite cladding to create interest in clearly signifying the store entrance. This feature will also include signage areas subject to a separate advertisement consent application.

With regard to scale and massing, the surrounding area comprises of a mix of commercial and residential properties incorporating building heights which range between two and two and a half storeys. The section drawing accompanying the application indicates that the overall scale of the proposed building with its flat roof element has been designed to take account of the relationship of the scale and massing of the adjacent properties.

In addition, taking account of the location of the store, and access to parking and surrounding highways (Hamilton Road & Muglet Lane) along with the design of the areas around the store entrance, this is considered to meet the access needs and improved provision of people with mobility and sensory handicaps.

Overall it is considered that the design of the building utilises a simple palette of materials that will result in a building with a clean appearance. The building and wider site will be visually more appealing than the existing buildings on site and is of an appropriate layout, scale, massing and design. The development will impact on the potential development achievable on the remainder of the former Council depot site to the north, which has been taken out of the application site, though this impact will be considered as part of any future development of that site.

Taking account of the above, the proposal is in accordance with policies CS3, CS14, and CS28, together with the requirements of the NPPF and NPPG.

Landscaping issues

Policy CS21 'Landscape' states: "New development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the Borough's landscapes." Furthermore, paragraph 58 of the NPPF notes that planning decisions should aim to ensure that developments are visually attractive as a result of appropriate landscaping.

With regard to landscaping matters, the applicants have submitted a landscaping scheme for the site, which indicates a mix of ornamental planting and new tree planting. In terms of boundary treatment, no information has been put forward and a condition shall be appended to any approval to secure the provision of a high quality boundary treatment.

In all other respects the landscape scheme submitted is acceptable and a standard condition will be appended stating the development shall be carried out in accordance with the submitted landscape scheme. Therefore, subject to conditions the development would comply with the requirements of policy CS21 and the NPPF.

Transportation issues

Policy CS14 'Accessible Places and Managing Demand for Travel' states that the Council will focus on making places more accessible and on changing travel behaviour. It further states that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by locating new development in highly accessible locations, enabling walking and cycling to be used for shorter trips and for links to public transport interchanges; reducing car parking provision in town centre and other accessible sites.

The Council's adopted Car Parking Standards (June 2011) notes that A1 non-food retail units should have a maximum of 1 space per 25sqm plus accessible parking.

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

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

Paragraph 34 goes on to state that: "Plans and decisions should ensure developments that generate significant movements and are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised."

The Design and Access Statement submitted in support of the application states that the site is easily accessible by public transport with existing bus stops within

close walking distance. The proposed main vehicular access to the site is off Hamilton Road which ensures clear access to the development for customers and for efficient servicing; the scheme will also incorporate pedestrian links from Hamilton Road and a connection from the Aldi foodstore site to the proposed site linking the two units. It further advises that the store will be serviced from the new access off Hamilton Road to the side of the store adjacent the southern boundary, and a small path runs around the back of the store to permit fire escape access.

The submitted TA has assessed all contributory factors including the consented Aldi store as well as the proposed retail store (the subject of this application). The TA analysis suggests it is able to demonstrate that the proposed non-food retail store would provide an alternative shopping destination within Maltby, within walking destination of surrounding retailers and residential dwellings, and the proposed site is accessible by all modes of travel, with a high probability of linked trips to the existing retail units, found on Maltby's High Street.

The TA further advises in terms of the capacity assessments carried out that the results demonstrate that there is a negligible impact arising from combined developments in the 2013 and 2018 assessment years.

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

Furthermore, the submitted Travel Plan primarily focuses upon staff travel as this is likely to have the largest benefits and aims to set out measures, objectives and targets for reduced car usage and increased non-car transport usage, including modal split targets; the provision of Travel Plan Co-ordinator including roles, responsibilities and annual monitoring; the provision of travel information; implementation and review timescale; and enforcement, sanctions and corrective/review mechanisms.

The measures contained within the TP note that it shall be implemented in accordance with the approved timescale i.e. the store opening, except where the monitoring evidence demonstrates that revised timescale/measures to achieve trip targets are necessary i.e. via an annual review.

From a highways development perspective, the Council's Transportation Unit raise no objections to the proposed development on highway safety grounds subject to the imposition of the suggested conditions in regards to: Closure of existing access points onto Hamilton Road; provision of tactile pedestrian crossings; provision and marking out of all parking / delivery / servicing areas; details of all hardstanding areas (permeable / impermeable) to be provided; and a scheme detailing how the use of sustainable/public transport would be encouraged.

From a transport point of view the impact of the development on the highway network is considered to be minimal.

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

As such the scheme would comply with policy CS14 and the guidance contained within the NPPF.

### Ecology considerations

The NPPF advises at paragraph 117 that: "To minimise impacts on biodiversity and Geodiversity, planning policies (amongst others) should: ...promote the preservation, restoration and re-creation of priority habitats, ecological networks and local targets, and identify suitable indicators for monitoring biodiversity in the plan." In addition policy CS20 'Biodiversity and Geodiversity' states the Council will conserve and enhance Rotherham's natural environment.

The Council's Ecologist indicates that from the originally submitted details further information will be required and further ecological work will need to be carried out by the applicant before a decision can be made, due to the demolition of buildings on the site and the potential for them to contain ecological interest. However, now that a prior notification application has been submitted in respect of the demolition of the buildings, which appears acceptable to the Council and is to be determined imminently, and as work is due to start on the demolition of the existing buildings once this approval is given, this negates the need to provide any further ecology information under this application. This is due to the fact that ecological issues are not a statutory consideration in the Prior Approval process, although other UK and EU wildlife legislation must be complied with.

Therefore the Ecologist has no objections to the proposals subject to an Informative regarding the relevant nature conservation protection under UK and EU legislation.

### General amenity issues

The NPPF notes at paragraph 17 that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

In respect of the design of the development and its impact upon neighbouring amenity, taking account of the location / orientation of the proposed store and its associated parking area, there are not any properties directly affected by the proposed development. Wider ranging views of the development can be achieved by neighbouring properties on Strauss Crescent, but these would be sited approximately 37 metres from the north facing elevation of the building. In addition no. 20 Hamilton Road may have some views of the building from their property but this would be sited approximately 43 metres away. Therefore given the distance of the building and its height, together with land levels, boundary treatment and orientation of the site it is considered that the impact of the proposal will be limited on neighbouring properties. This will be further minimised by the proposed landscape scheme on this application and a further landscape scheme on the adjacent site should that come forward in the future.

Turning to the matter of loss of amenity through noise matters, UDP policy ENV3.7 'Control of Pollution' states: "The Council...will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development..." It further states planning permission will not be granted for new development which is likely to give rise to, amongst other things, noise and light pollution.

The submitted Noise Impact Assessment includes details relating to ventilation and extraction for the proposed store and has adopted the principles previously applied for the adjacent Aldi store in relation to noise from new plant not exceeding existing background noise levels at noise sensitive boundaries to the north east and south by 5 dB(A) during the day and 3 dB(A) at night.

In re-assessing matters the report identifies that cumulatively no observed adverse effect or additional harm would occur at noise sensitive boundaries from fixed plant / machinery, car parking or vehicles using the service area to contravene existing background noise levels.

The applicant has indicated that they are seeking delivery hours of Monday to Saturday: 07.00 - 23.00 & Sunday: 09.00 - 22.00, with opening hours for customers of 08.00 – 22.00 Monday to Saturday and between the hours of 10.00 -17.00 on Sundays.

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

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

Taking account all of the above, the Council's Neighbourhoods (Environmental Health) Unit have not raised issue to the proposed delivery and store opening hours and are content with the imposition of a suitable condition in respect of noise mitigation and light impact. In light of the above and subject to conditions, the proposal would comply with the UDP policy ENV3.7 and the advice contained within the NPPF.

#### Drainage and Flooding

UDP policy ENV3.2 'Minimising the Impact of Development' notes that: "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impact on the environment, including water resources..."

Although the site lies outside the identified flood zone, the applicants have submitted a Flood Risk Assessment (FRA) and Drainage Report.

The FRA indicates that the development is considered to have a medium risk of surface water flooding, however, this risk can be managed through good design and careful consideration of the external levels. Finished floor levels should generally be set 150mm above the adjacent external ground levels. The proposed external levels should also fall away from the store to ensure any fluvial flooding is directed

away from the proposed building and towards the surface water attenuation facilities and the natural flow path (i.e. the south eastern corner of the site).

Furthermore, it states that the foodstore development to the south of the site is not considered to be affected by these proposals due to the elevated finished floor level and the external ground levels shaped to prevent flood flows entering the site.

In addition surface water should be discharged into the existing surface water sewer crossing the site. Finally it states that SUDS techniques should be provided, where possible, to treat the surface water run-off from the site at source, prior to discharging into the surface water drainage network and foul water flows from the site should discharge into the existing foul water sewer crossing the southern end of the site at an unrestricted rate.

In addition to the above, the Drainage Engineer has indicated that despite the levels and the fact that the south-west corner of the site could be susceptible to surface water, they have no objections to the proposals from a drainage perspective given no building or car parking is proposed in the south-east corner of the site. Therefore subject to the imposition of several conditions relating to the submission of a surface water drainage scheme, based on sustainable drainage principles and details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work and on site attenuation of surface water flows being submitted and approved prior to any building work commencing on site there will be no drainage or flooding issues in relation to the proposal. It is also recommended that a condition be added that requires areas likely to receive petrol/oil contamination (e.g. vehicle parking areas) to be passed through effective oil/grit interceptors prior to discharge to any sewer or watercourse.

In light of the above and subject to conditions the application will be in compliance with the requirements of 'saved' UDP policy ENV3.2.

#### Land contamination matters

UDP 'saved' Policy ENV4.4 'Contaminated Land' notes that where land that may be contaminated as a result of previous use, is proposed for development the Council will need to be satisfied that the applicant has carried out investigations to establish the nature and extent of contamination and its potential effects. In addition they should provide details for its removal and / or treatment.

The NPPF further notes at paragraph 120 that: "Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and / or landowner." In addition paragraph 121 states: "Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability.
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990
- adequate site investigation information, prepared by a competent person, is presented."



In assessing the submission of the Phase II Report, the Council's Contaminated Land Officer raises no objections to the proposal subject to recommend conditions in regard to: Remediation method statement; details of foundations; suitable gas protection measures; suitable water supply pipe provision; details of electricity supplies; details of importation of soils; and Final Verification report.

### **Conclusion**

Having regard to the above it is concluded that the proposal represents an acceptable form of development that would be in compliance with the policies of Rotherham's adopted Core Strategy and UDP and the guidance contained within the NPPF. Therefore subject to conditions the application for the reasons detailed in this report is recommended for approval.

### **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(s) 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)

12281-100B, received 16 February 2016  
12281-50A, received 26 January 2016  
12281-102A, received 26 January 2016  
12281-103A, received 26 January 2016  
V12281-LO1A, received 26 January 2016  
12281-104, received 25 September 2015  
12281-101, received 25 September 2015  
12281-DAR-V101, received 25 September 2015  
12281-DAR-V102, received 25 September 2015

Reason

To define the permission and for the avoidance of doubt.

### **Materials**

03

The materials to be used in the construction of the external surfaces of the retail store hereby permitted shall be in accordance with the details provided in the submitted application form / shown on drawing no 12281-102A. The development shall thereafter be carried out in accordance with these details.

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design'.

Highways

04

Before the retail store is first brought into use, the car parking area shown on the submitted plan (drawing number 12281-100B) shall be provided, marked out and thereafter maintained for car parking.

Reason

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

05

Before the retail store is first 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.

06

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

Reason

In the interests of road safety.

07

Other than demolition works, no development shall take place until details of 2 tactile pedestrian crossings on Muglet Lane (1 to the north of the junction with Hamilton Road and 1 to the south of the junction), shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is brought into use

Reason

In the interests of road safety.

08

Before the retail store is first brought into use a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

09

Before the retail store is first brought into use, the requirements of the submitted Travel Plan shall be brought into effect. 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 implementation. For further information please contact the Transportation Unit (01709) 822186.

Reason

In order to promote sustainable transport choices.

10

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

Reason

In order to promote sustainable transport choices.

11

Details of the proposed upgrading of Tickhill Road bus stop (no. 37031017) shall be submitted to and agreed in writing with the Local Planning Authority, and the approved details shall thereafter be implemented and maintained in accordance with a timescale to be agreed by the Local Planning Authority and shall be completed in advance of the store first being occupied.

Reason

In order to promote sustainable transport choices.

### Drainage

12

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

Reason

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

13

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

Reason

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

14

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

Reason

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

Landscaping

15

Landscaping of the site as shown on the approved plan (drawing no. V12281 L01 Rev A ) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows' and policies CS28 'Sustainable Design' and CS21 'Landscapes' of Rotherham's adopted Core Strategy.

16

No development shall take place above ground level 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 building is brought into use.

Reason

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

Amenity

17

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

Reason

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

18

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

Reason

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

19

Notwithstanding the submitted details, no noise generating plant including mechanical ventilation or air conditioning / extraction plant shall be installed in any part of the development until full and precise details have been submitted to and approved in writing by the Local Planning Authority. The details shall include a BS4142:2014 noise assessment and 1/3 octave frequency analysis with appropriate corrections for acoustic features and shall detail any mitigation measures, physical or operational to achieve the maximum noise level of no more than 0dB above the existing background noise level measured at the boundary of the nearest noise sensitive property. Once the details have been approved the plant and machinery shall be installed and operational before the store is open to the public.

Reason

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

20

Before the retail store is first brought into use, details of the external illumination of the proposed store and car parking areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason

In the interests of neighbour and visual amenity and in accordance with UDP Policy ENV3.7 'Control of Pollution.'

Land contamination

21

Prior to any remediation commencing on site a Remediation Method Statement shall be submitted to and approved by the Local Planning Authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Reason

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

22

In the event that during development works unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. Works thereafter shall be carried out in accordance with an approved Method Statement.

Reason

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

23

Prior to occupation if subsoils / topsoils are required to be imported to site for remedial works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination. The results of testing will need to be presented in the format of a Verification Report.

Reason

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

24

Following completion of any required remedial/ground preparation works a Verification Report should be forwarded to the Local Planning Authority for review and comment. The Verification Report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial

sampling and analysis to show the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the Local Authority.

Reason

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

25

The site has been classified as a Gas Characteristic Situation 2. Gas protection measures are therefore required comprising of:

- a) a cast in situ floor slab with a lapped and taped minimum 1200g membrane (reinforced); or
- b) ka beam and block or pre cast floor slab with a lapped and taped minimum 2000g membrane; and
- c) junder floor venting in combination with either of (a) or (b) above
- d) All joints and penetrations should be sealed.

The installation of the gas protection measures in each new build is to be verified by an independent third party and shall be included in the Verification Report required in condition 23.

Reason

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

26

Prior to any construction work on the building hereby approved taking place details of suitable water supply (barrier) pipes shall be specified and approved in writing by this Local Planning Authority to ensure resistance from chemical attack from residual contaminants remaining in the made ground.

Reason

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

Drainage

27

Prior to any construction work on the building hereby approved taking place a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of

the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the construction details and shall subsequently be implemented in accordance with the approved details before the building is occupied. The scheme to be submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques (e.g. soakaways etc.);
- The limitation of surface water run-off to equivalent brownfield rates (i.e. minimum of 30% reduction in flows based on existing flows and a 1 in 1 year return period);
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

To adhere to the recommendations in the Flood Risk Assessment.

### Reason

To ensure that the development can be properly drained in accordance with UDP Policies ENV3.2 'Minimising the Impact of Development', ENV3.7 'Control of Pollution' and the South Yorkshire Interim Local Guidance for Sustainable Drainage Systems for Major Applications.

28

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

### Reason

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

29

Prior to any construction work on the building hereby approved taking place details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work and on site attenuation of surface water flows 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'.

### Miscellaneous

30

Before the retail store is first brought into use, a scheme shall be submitted to the Council for approval in writing indicating strategies to encourage and/or enable local people to access job opportunities arising from the development site. Within 12 months of the use being commenced a statement shall be provided to and approved



in writing by the Local Planning Authority demonstrating how occupants have complied with the scheme.

Reason

In the interests of economic regeneration of settlements associated with the development site and in accordance with policy CS10' Improving Skills and Employment Opportunities' of Rotherham's Core Strategy..

31

The net sales floor area (defined as all internal areas accessible to the customer, but excluding additional warehouse, staff and office facilities) shall not exceed 75% for non-food goods and 25% food and drink sales.

Reason

To ensure that the proposal is in accordance with the submitted information and the subsequent assessment of the impact of the proposal is in accordance with policies in Chapter 2 of the NPPF.

Informative(s):

01

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

It is recommended that the following advice is followed to prevent a nuisance/ loss of amenity to local residential areas. Please note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust. If a statutory nuisance is found to exist they must serve an Abatement Notice under the Environmental Protection Act 1990.

Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in Rotherham Magistrates' Court. It is therefore recommended that you give serious consideration to the below recommendations and to the steps that may be required to prevent a noise nuisance from being created.

(i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 – 18:00 Monday to Friday and between 09:00 – 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

(ii) Heavy goods vehicles should only enter or leave the site between the hours of 08:00 – 18:00 on weekdays and 09:00 – 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

(iii) Best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these

means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

(iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

02

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals (tel: 0116 234 3834). Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

03

The applicant's attention is drawn to the fact that in discharging the requirements of condition 20 that any external lighting shall meet the guidance provided by the Institution of Lighting Professionals in their document GN01: 2011 "Guidance Notes for the Reduction of Obtrusive Light". This is to prevent lighting causing disamenity to neighbours. The Guidance Notes are available for free download from the 'resource' pages of the Institute of Lighting Professionals' website.

04

The applicant's attention is drawn to the fact that (1) piled foundations or (2) the made ground is to be treated using vibro improvement stone columns in combination with a shallow reinforced strip foundation are to be used and should be undertaken in accordance with the specifications outlined in sections 6.12 -6.16, pages 15 – 16 of the report entitled 'Proposed Mixed Use Development, Hamilton Road, Maltby – Phase II Geo-Environmental Assessment for Heybridge Properties (Maltby) Ltd – prepared by 3E Consulting Ltd, dated June 2015, reference14524, Issue 2'.

05

The applicant's attention is drawn to the fact that in order to minimise the risk from soils identified with high calorific values (with potential to combust), all heavily loaded electricity supplies within trenches will need to be isolated from the made ground materials and sealed to prevent any air ingress. These works will need to be validated and confirmed in the format of a Verification Report.

06

The applicant's attention is drawn to the recommendations contained within the attached comments received from South Yorkshire Police (Architectural Liaison Officer).

07

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

08

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

09

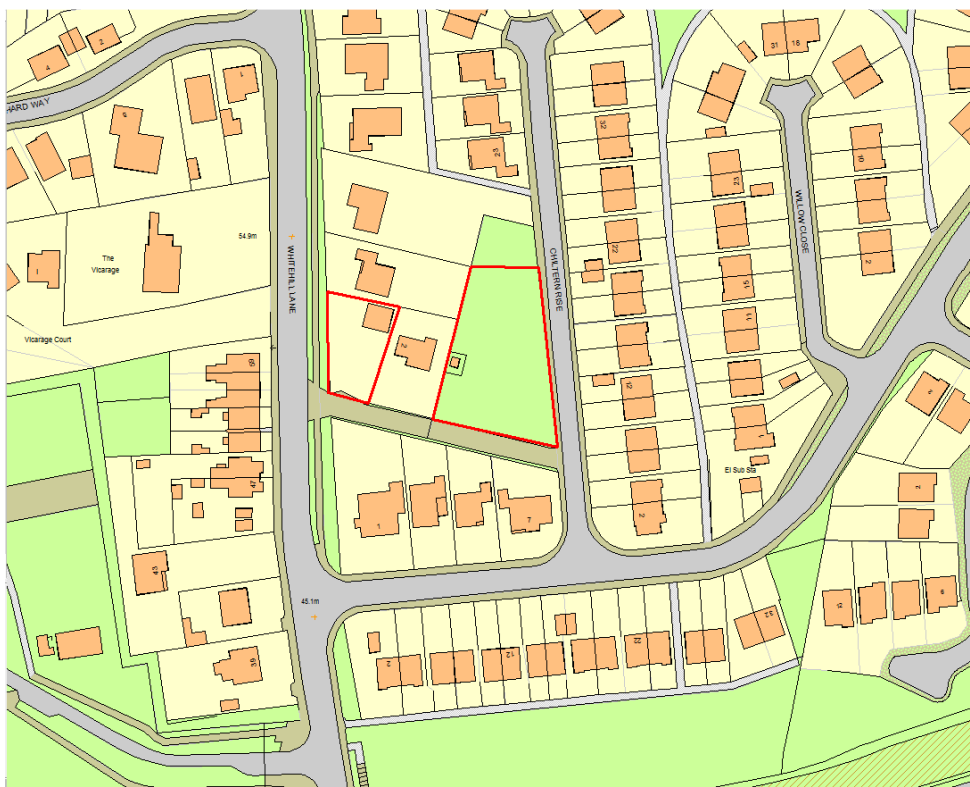
The applicant is advised that in order to ensure 'non-customers' of the store do not park in the proposed car park, appropriate signage should be erected around the car park to ensure only customers of the store utilise the car park.

#### POSITIVE AND PROACTIVE STATEMENT

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

<p><b>Proposal and Location</b></p>	<p><b>Erection of 6 no. semi-detached dwellinghouses &amp; 1 no. detached dwellinghouse and detached garage at land at 2 Whitehill Lane, Brinsworth, S60 5RJ</b></p>
<p><b>Recommendation</b></p>	<p><b>A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</b></p> <ul style="list-style-type: none"> <li><b>• A contribution of £70,000 towards the provision of affordable housing within Rotherham</b></li> </ul> <p><b>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the following conditions:</b></p>

This application is being presented to Planning Board due to the number of objections that have been received.



**Site Description and Location**

The application site is split into two parcels, and forms the residential curtilage of no. 2 Whitehill Lane to the west and a paddock area to the east fronting Chiltern Rise.

The portion of the site to the west of no. 2 Whitehill Lane is currently occupied by a large detached garage located adjacent to the boundary with no. 4 Whitehill Lane,

and an area of hardstanding, some landscaping, a tall boundary hedgerow fronting Whitehill Lane and a vehicular access off Whitehill Lane. There is also a driveway running parallel with the rear of properties on Howarth Road to the south and in front of no. 2 Whitehill Lane that is used to access the second part of the site on Chiltern Rise.

The properties on Howarth Road are at a slightly lower level while; no 4 Whitehill Lane is at a higher level.

The second portion of the application site is on the eastern side of Chiltern Rise which is a residential estate road, with properties being laid out in a Radburn form. This results in the rear of the properties on the western side of Chiltern Rise facing the road whereas the front of the properties face towards the footpath. There are properties on the eastern side of Chiltern Rise towards the turning head of the cul-de-sac and the road slopes upwards from Howarth Road.

There is no footpath on the western side of Chiltern Rise and the site is defined by a post and rail timber fence fronting Chiltern Rise with hedgerows to the south and west. The site slopes both from south to north and east to west.

### **Background**

There have been no previous planning applications submitted relating to this site.

### **Proposal**

This application is for the construction of 6 semi-detached dwellings fronting Chiltern Rise and a single detached dwelling with a detached garage to the west of no. 2 Whitehill Lane.

The proposal will result in the existing garage being demolished.

The proposed detached dwelling would be sited approximately 4.9 metres from the boundary with no. 4 Whitehill Lane; approximately 3 metres from the west facing elevation of no. 2 Whitehill Lane; set back from Whitehill Lane by approximately 7.7 metres at its closest; and approximately 35 metres from the rear elevation of no. 1 Howarth Road.

The detached dwelling would have a footprint of 10 metres x 9 metres with a ridge approximately 7.8 metres high. The dwelling would have a hipped-roof with a projecting two-storey element and ground floor bay window feature facing Whitehill Lane, a two-storey bay window feature and entrance door is proposed on the southern elevation. On the east facing elevation a bathroom and landing window is proposed at first floor and W/C at ground floor, with an en-suite window at first floor and a window and entrance door on the northern elevation.

With regard to the 6 semi-detached dwellings proposed, they will be of two different designs / forms.

The northernmost pair will be sited approximately 2.6m from the northern boundary of the site with an area of greenspace, between 1.9m and 4.7m from Chiltern Rise

and between 10.2m and 12.2m from the boundary with no. 2 Whitehill Lane. The footprint of the two semi-detached dwellings is approximately 13.6m by 6.8m, with a ridge height of approximately 7.9m. Each half of the pair of semis will have a single-storey projecting porch feature.

The middle pair of semi-detached dwellings will be sited approximately 5 metres from the northernmost properties, between 5.2m and 7.3m from Chiltern Rise and between 12m and 13.5m from the boundary with no. 2 Whitehill Lane. The footprint of the pair would be approximately 10.2m by 8.9m with a 2.3m projection at ground floor for a front porch feature. It would have a ridge height of approximately 7.9m.

The southern pair of semi-detached dwellings will be sited approximately 5.2m from the middle pair, between 5.9m and 7.9m from Chiltern Rise and between 16.9m and 17.8m from the boundary with no. 2 Whitehill Lane and 12m and 13m from the rear of properties on Howarth Road. The footprint and design will be the same as the middle pair.

The applicant is proposing to brick up a ground floor and first floor window in the existing building's (no. 2 Whitehill Lane) west facing side elevation, in addition to obscurely glazing and fixing a first floor window on its east facing side elevation and inserting a rooflight into the rear roofslope of no. 2 Whitehill Lane for escape purposes.

The new detached garage would be approximately 6m x 5.1m with a dual pitch roof, having a ridge height of approximately 3.9m. It would be sited approximately 6.6m to the south of the proposed detached dwelling, approximately 5m north of the boundary with properties on Howarth Road and approximately 6m from Whitehill Lane. It will solely be used for the future residents of the detached dwelling.

Access to the detached dwelling and the new detached garage will be from the existing access off Whitehill Lane. The existing property will also utilise this access and have parking spaces to the front.

The properties fronting Chiltern Rise will have individual driveways with space for parking of vehicles clear of the highway. The proposal also involves the formation of a 2 metre wide pedestrian footpath on the eastern side Chiltern Rise within the application site boundary.

The dwellings and garage are proposed to be constructed in brick, details of which would be approved through condition.

### **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 residential purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

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 residential purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS1 'Delivering Rotherham's Spatial Strategy'  
CS3 'Location of New Development'  
CS7 'Housing Mix and Affordability'  
CS6 'Meeting the Housing Requirement'  
CS14 'Accessible Places and Managing Demand for Travel'  
CS21 'Landscape'  
CS28 'Sustainable Design'  
CS33 'Presumption in Favour of Sustainable Development'

Unitary Development Plan 'saved' policy(s):

HG4.3 'Windfall Sites'  
HG4.4 'Backland and Tandem Development'  
HG5 'The Residential Environment'

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

Further to the above, guidance set out within the following documents is also relevant in assessing this application:

Rotherham's adopted Supplementary Planning Guidance (SPG) – 'Housing Guidance 3: Residential infill plots'  
Rotherham's adopted Parking Standards

South Residential Design Guide

## Publicity

The application has been advertised by way of press, and site notice along with individual neighbour notification letters to adjacent properties. A further letter was sent out after receiving amended plans. A number of letters of representation have been received from 11 individual addresses. The comments raised are summarised below:

- Will block light, obscure our views and cause even more parking congestion
- Will have a negative impact on the value of our property.
- Will have an effect on the environment as there is a lot of wildlife on the paddock.
- Will give rise to overlooking, loss of privacy and overshadowing.
- Represents overdevelopment of the site.
- Out of character with the existing developments in the area.
- Where will construction staff park?
- Where will visitors park?
- The site is subject to air pollution from both the M1 and Sheffield Parkway.
- Will cause road safety issues.
- May result in drainage issues.

1 Right to speak request from a local objector has been received.

## Consultations

Streetpride (Transportation Unit): Have no objections subject to conditions securing a 2.0 metre wide footway on Chiltern Rise, all hardstanding to be permeable; and a scheme for the promotion of sustainable transport being submitted.

Neighbourhoods (Air Quality): As the development is within an Air Quality Management Area, it is important that green infrastructure (particularly existing trees) is not lost as part of a development.

Streetpride (Drainage): Have recommended a standard drainage condition as no drainage information has been submitted and have provided the applicant with some advisory notes regarding surface water flooding and suitability of the ground conditions for the surface water to be disposed of to soakaways

Streetpride (Trees and Woodlands): Have no objections.

Neighbourhoods (Affordable Housing): This development will be subject to the affordable housing levy of £10,000 per property.

## Appraisal

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



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

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

The main considerations in the determination of this application are:

- Principle
- Design and Visual Amenity
- Residential Amenity
- Highways Issues
- Loss of Trees
- Affordable Housing
- Other considerations

#### Principle

Policy HG4.4 states: "The Council will resist the development of dwellings in tandem except in cases of low density where further development would not be detrimental to the amenities and character of the area. In these exceptional circumstances, the Council will impose criteria relating to building height, space around the building, privacy, safety and vehicular access."

In this instance it is considered that the development is of a low density and would not be detrimental to the amenities and character of the area. Furthermore, the proposed buildings are of an appropriate height, scale, form and design, where there is sufficient space around the buildings for amenity, parking and manoeuvring. Furthermore, the proposal would ensure there is an appropriate level of privacy, safety and vehicular access.

In addition, the proposal would comply with Policy HG4.3 given the application site is allocated for residential purposes, surrounded by residential properties within a built-up residential area, and as such the proposal would be compatible with the land use of the site and adjoining residential uses.

The site is located within the Rotherham Urban Area as defined in policy CS1 of the adopted Rotherham Core Strategy, which states: "Most new development will take place within Rotherham's urban area..." Furthermore, the explanatory text to the Policy states the Rotherham urban area is the most sustainable location in the Borough for accommodating new housing.

It is also noted that the Council cannot currently demonstrate a five year supply of deliverable housing sites and the application therefore must be considered in light of the 'presumption in favour of sustainable development' contained within paragraph 14 of the NPPF and adopted policy CS33. Therefore planning should be granted

unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.”

The site is within close proximity to local services on Whitehill Lane, within Brinsworth and Catcliffe, existing housing areas and near to public transport services with links to the town centre, Sheffield and Meadowhall. Therefore it is acknowledged that the site is within a highly sustainable location, which complies with policies CS1, CS3, CS14 and CS33 of Rotherham’s adopted Core Strategy.

Furthermore, policy CS6 of the Core Strategy states housing development will be expected to make efficient use of land while protecting and enhancing the character of the local area. It is considered that given the location of the site and its size the proposal will make an efficient use of this site and will enhance and protect the character of the local area.

Accordingly, in light of the above the principle of residential development on this land would be acceptable and would comply with the policies within the NPPF, Core Strategy and UDP.

Therefore as specified in the NPPF planning should be granted unless “any adverse impact of doing so would significantly and demonstrably outweigh the benefits.” The remainder of this report will assess whether the proposal will give rise to any adverse impacts that would significantly and demonstrably outweigh the benefits.

#### Design and Visual Amenity

Policy HG5 of the adopted UDP encourages the use of best practice in housing layout and design in order to provide high quality developments. This approach is echoed by the NPPF.

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 a good planning, and should contribute positively to 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 scheme.”

Policy CS21 states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the Borough’s landscapes. In addition policy CS28 indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with well-designed buildings. 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.

In respect of the design and appearance of the proposed dwellings it is considered to be of an acceptable and appropriate form which has been sympathetically designed taking account of the character of the surrounding area, neighbouring properties and the topography of the site. Furthermore, the proposed detached

garage is also considered to be appropriately designed and sited. Accordingly, it is considered that the proposal would not be at odds with the immediate surrounding area and by virtue of its size, scale, form, design and siting would have a good relationship with the adjacent and surrounding properties and the surrounding area in general. As such it is considered that it would not adversely affect the character of the area or introduce any incongruous features.

Furthermore, the size of the proposed dwellings and garage are considered appropriate in relation to the size of the site, as the proposed dwellings will be provided with an appropriate amount of floor space and private amenity space that accords with the guidance detailed in the South Yorkshire Residential Design Guide. Additionally, space for cars to be parked within the curtilage of each property, is to be provided which would be in accordance with the Council's adopted Minimum Parking Standards. Therefore the proposal will not result in the overdevelopment of the site.

In light of the above it is considered the proposal would represent an appropriate and acceptable form of development that would be in full compliance with the requirements of the NPPF and Core Strategy policy CS28 and would not adversely affect the character or appearance of the area.

#### Residential Amenity

The Council's adopted SPG 'Housing Guidance 3: Residential infill plots' sets out the Council's inter-house spacing standards. The guidance states there should be a minimum of 20 metres between principle elevations; 12 metres between a principle elevation and an elevation with no habitable room windows; and no elevation within 10 metres of a boundary with another residential property should have a habitable room window at first floor and should contain no habitable room window at ground floor unless there is sufficient and appropriate boundary treatment.

Further to the above the NPPF at paragraph 17 states planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The proposed semi-detached dwellings located on Chiltern Rise would be sited at least 20 metres between the front of the properties and the rear elevations of properties on Chiltern Rise; there would be at least 12 metres between the side elevation of the southernmost dwellings and the rear of properties on Howarth Road and no habitable room window of the properties proposed on Chiltern Rise would be within 10 metres of a boundary with another property. Notwithstanding the above, the central pair of semi-detached properties would be sited less than 20 metres from the east facing elevation of the existing no. 2 Whitehill Lane, which could result in an adverse impact on the amenity of existing and future residents. In order to overcome this issue the application is proposing to obscurely glaze the first floor bedroom windows on the east facing elevation of the existing dwelling.

Therefore in light of the above it is considered that the proposed dwellings fronting Chiltern Rise will not give rise to an overbearing relationship between the buildings and there would be no direct overlooking of the properties surrounding the site. Furthermore, a condition requiring the first floor windows in the east elevation of no.

2 Whitehill Lane to be obscurely glazed and one restricting further openings in this elevation will ensure privacy is maintained at an acceptable standard.

In addition to the above, and with regard to the impact of the proposal on sunlight / daylight entering the habitable room windows of those residing at properties on Howarth Road, it is noted that whilst the closest dwelling would not be wholly under a 25 degree vertical angle line from the centre of the closest existing habitable room window, only a small section of the roof would be under. However, given that the distance between the elevations would be in excess of 12 metres, together with the orientation of the site and the overall height and form of the proposed dwellings, then it is considered that on balance the impact on the amount of daylight entering the ground floor habitable rooms of properties on Howarth Road will be minor and not significant enough to warrant a refusal of planning permission.

In respect of the detached dwelling and its impact on the amenity of neighbouring residents at nos. 2 and 4 Whitehill Lane, it is noted that the applicant has indicated that they are to brick up the windows in the west facing elevation of no. 2 as the dwelling would only be sited approximately 3.1 metres away. Furthermore, the proposed detached dwelling would have no habitable room windows facing no. 2 and a condition is recommended to ensure this is maintained.

With regard to the impact on no. 4 Whitehill Lane, which is a detached bungalow with a window in its side elevation approximately 8 metres to the rear elevation of the proposed dwelling, it would not meet the spacing distances but given the orientation of the site, land levels, boundary treatment and the fact that the proposed detached dwelling would be wholly under a 25 degree vertical angle, it would not have an overbearing or overshadowing effect on the occupants of no. 4. Furthermore, there are no habitable room windows proposed in the north face elevation of the proposed detached dwelling.

In light of the above, it is considered that on balance the proposed detached dwelling would have no significant impact on the amenity of those residing at either nos. 2 or 4 Whitehill Lane and subject to conditions this will be maintained.

Therefore spacing distances detailed above are in this instance considered to be acceptable subject to conditions and as such they would not result in the proposed properties adversely affecting the outlook from neighbouring properties by appearing overbearing; would not give rise to any privacy or overlooking issues, and would not lead to any overshadowing of habitable rooms.

Therefore in light of the above and the issues raised by residents in terms of the proposed developments impact on the amenity of those residing at surrounding properties, it is considered that given the height, size, siting, design of the proposed building, together with the orientation of the site, land levels and proposed boundary treatment, the proposal would comply with the requirements of the Council's adopted guidance and the NPPF. Therefore, the proposal would not appear overly dominant or overbearing when viewed from surrounding properties and would not give rise to any overshadowing or privacy issues.

#### Highway issues

The proposed development involves the demolition of an existing detached garage used by the occupants of no. 2 Whitehill Lane, the construction of a new detached dwelling and detached garage for future occupants of the detached dwelling, while each of the six dwellings fronting Chiltern Rise and the existing detached dwelling will be provided with adequate space to cater for off-street parking within their curtilage to comply with the Council's current car parking standards.

Furthermore, it is of note that a new footway is proposed to the site fronting Chiltern Rise, this will be 2 metres wide and will be provided within the site frontage, the footway will be constructed to adoptable standards.

In light of the above the Council's Transportation Unit have raised no objections to the proposal from a highways perspective subject to the imposition of conditions relating to; permeable surfacing, promotion of sustainable transport methods and the footway being prospectively adoptable.

Furthermore, in terms of the issues raised by residents that the proposed scheme would enhance the congestion and parking situation on Chiltern Rise and Howarth Road, particularly at pick up and drop off times at Brinsworth Whitehill School close by, it is noted that the proposed development if implemented will provide a footway on the site frontage with Chiltern Rise so as to provide a safe facility for pedestrians. IN addition to this and as detailed above all dwellings will comply with the Council's Minimum Car parking standards. Taking this into account, it is considered that the additional dwellings can be safely accommodated within the existing highway network with the improvements proposed.

### Loss of Trees

The proposed development is supported by a Tree Survey by Anderson Tree Care dated, September 2015. The report includes details of 13 individual trees and various hedges. Of these T4, T10 and T11 appear to be outside the application site. The contents of the report are noted, although not all the comments regarding the future prospects of some of the trees concerned are agreed with.

According to the submitted details all the trees and hedges, apart from T8, are listed as 'C' category trees in accordance with BS 5837 – those of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm. T8 is listed as category 'U', in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.

Of the existing trees T5 to T7 are the most significant amenity trees due to their mature age, size and position within the landscape and the retention of these trees is desirable.

As the proposals stand T2, T6, T7 and T8 are shown to be removed to accommodate the development. The premature removal of T6 and T7 would no doubt result in a partial reduction of amenity and associated benefits but the retention of T6 and T7 would also reduce the amount of land that can be developed by 2 units. This would make the scheme unviable and as such it is recommended that 2 semi-mature sized replacement trees shall be planted as part of a detailed

landscape scheme for the site as part of a condition to any approval to help provide future amenity.

The future prospects of the remaining trees and hedges shown to be retained will need to be safeguarded throughout any development. In part this may be achieved by the provision of barrier fencing in accordance with the above standard. Therefore, the standard planning condition relating to their safeguarding is recommended with any consent.

The loss of T2 and T8 is not objected to due to their reduced condition and limited future prospects. Indeed, their removal is likely to be required in the near future irrespective of any development. This should not result in a significant reduction of amenity.

In light of the above it is considered that subject to adequate replacement the loss of the trees proposed is acceptable.

### Affordable Housing

In regard to affordable housing provision, policy CS7 states:

- a) Proposals for new housing will be expected to deliver a mix of dwelling sizes, type and tenure taking into account an up to date Strategic Housing Market Assessment for the entire housing market area and the needs of the market, in order to meet the present and future needs of all members of the community.
- b) The Council will seek the provision of affordable housing on all housing development according to the targets set out below, subject to this being consistent with the economic viability of the development.

In this instance as the scheme is for only seven units, there would be no requirement for on-site affordable housing, but the development will require a financial contribution of £10,000 per dwelling as a contribution to off-site affordable housing. This will be achieved by the Council entering into a Section 106 agreement with the developer and will be signed by both parties should Members be minded to grant planning permission.

### Other Considerations

With regard to the issues raised by objectors relating to overdevelopment, parking, overlooking, privacy and overshadowing they have been assessed and addressed in the previous sections of the report.

Issues relating to the proposals impact on the environment, wildlife, drainage and air pollution are material planning considerations and will be addressed below.

With regard to the proposals impact on the wildlife in the area, it is understood that the site doesn't provide habitats to protected species. However, should protected species be discovered during the construction phase the developer is legally required to comply with UK and EU Wildlife Legislation. An informative shall be appended to any approval to remind the developer of their responsibilities.

In terms of drainage issues, the Council's Drainage Engineer has assessed the proposal and is satisfied that subject to conditions the development will not give rise to any drainage issues. Furthermore, all hard surfacing is to be permeable which will further help in ensuring surface water does not run off the site into neighbouring land.

With regard to the loss of trees and the potential impact on air quality, it is noted that some trees are to be removed from the site and the Council's Air Quality Officer has stated that trees have an important role to play in combatting climate change; they absorb CO<sub>2</sub>, removing and storing the carbon while releasing the oxygen back into the air. Furthermore, trees are also important in terms of air quality, absorbing pollutant gases and reducing particulates in the air by trapping them on their leaves and bark.

As the development is within an Air Quality Management Area, it is important that green infrastructure is not lost as part of a development.

Therefore it is considered that the remaining trees and the proposed new trees will still provide a benefit both in terms of visual amenity and air quality.

With regard to the other issues raised regarding the loss of a view, loss of property value, and construction traffic, these are non-material planning considerations and very limited weight can be afforded to these issues in the determination of the application.

In light of the above and with regard to the material planning considerations raised by local residents it is considered that whilst weight has been given to them, for the reasons detailed in this report they do not outweigh the fact that the proposal complies with the relevant policies and guidance of local and national planning legislation.

## **Conclusion**

In conclusion and with regard to the issues raised by the objectors, which have been fully considered in the determination of this application, it is considered that the issues raised would not significantly and demonstrably outweigh the benefits of the development, which include the fact that the development would constitute sustainable development that would bring a vacant residential site into use with an attractive scheme, which is of an appropriate design and that does not have an adverse effect on the amenity of neighbouring residents or highway users.

The application constitutes sustainable development that accords with the policies and guidance of the Council's adopted Core Strategy and UDP. As such the application is recommended for approval subject to conditions and the signing of an s.106 agreement.

### **Recommendation**

- A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:

- A contribution of £70,000 towards the provision of affordable housing within Rotherham

B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the following conditions:

**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)

WL04 2 B, received 18 January 2016

WL04 2 A, received 4 February 2016

WL04 4, received 18 November 2015

WL04 5, received 18 November 2015

WL04 6B, received 4 February 2016

WL04 8, received 4 February 2016

Reason

To define the permission and for the avoidance of doubt.

**Pre-commencement Conditions**

03

No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2 metre high barrier fence in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction and positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

Reason

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



**Standard conditions**

04

The dwellings hereby approved shall not commence construction until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Core Strategy Policy CS28 Sustainable Design.

05

The construction of the dwellings hereby approved shall not be commenced until details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work and on site attenuation of surface water flows, 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'.

06

Prior to the occupation of the first dwelling a prospectively adoptable footway of at least 2.0 metres in width shall be provided on the site frontage with Chiltern Rise.

Reason

In the interests of road safety and to provide an appropriate footway for pedestrians to avoid conflict with vehicles on Chiltern Rise.

07

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

- a/ a permeable surface and associated water retention/collection drainage,
- or;
- b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

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

08

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

Reason

In order to promote sustainable transport choices.

09

Prior to the occupation of the first dwelling hereby approved, the existing first floor windows in the eastern side elevation of no. 2 Whitehill Lane which serves Bedrooms 2 and 3 and as shown on Drawing Number WL04 8, shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and be non-openable, unless the part(s) of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

Reason

In the interests of the amenities of the occupiers of adjoining properties.

10

Prior to occupation, the first floor windows on the north and east facing elevations of the detached dwelling hereby approved shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and be non-openable, unless the part(s) of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

Reason

In the interests of the amenities of the occupiers of adjoining properties.

11

Prior to the occupation of the first dwelling hereby approved, the ground and first floor windows in the western side elevation of no.2 Whitehill Lane, which serves the lounge and Bedroom 1 and as shown on Drawing Number WL04 8, shall be bricked up with materials that shall match those used in the existing building.

Reason

In the interests of the amenities of the occupiers of adjoining properties and in order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Core Strategy Policy CS28 Sustainable Design

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 further windows or openings shall be inserted into the eastern and western side elevations of the no. 2 Whitehill Lane or the north and east facing elevations of the detached dwelling hereby approved.

Reason

In the interests of the amenities of the occupiers of adjoining properties.

13

No dwelling shall be occupied 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 first dwelling is occupied.

Reason

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

14

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

Reason

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

15

Within 5 years of the commencement of the works no tree or hedge shall be cut down, uprooted or destroyed nor shall any tree or hedge be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree or hedge is removed, uprooted or destroyed or dies, another tree or hedge shall be planted in the immediate area and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason

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', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

Informatives:

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can

start. Condition numbered 03 of this permission requires matters to be approved before development works begin; however, in this instance the conditions are justified because:

1. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.

2. The details required under condition number 03 are fundamental to the acceptability of the development and the nature of the further information required to satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.

01

The applicant's attention is brought to the fact that flood risk to this site is small, but modelling of surface water carried out for the Environment Agency indicates that there is a risk of surface water flooding due to overland flows in extreme events. The external ground levels should therefore be designed to ensure that there is a flood route around the properties.

02

The applicant should also note that it is advised that the suitability of the ground conditions for the surface water to be disposed of to soakaways should be investigated at an early stage of the development.

03

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

(i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 – 18:00 Monday to Friday and between 09:00 – 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

(ii) Heavy goods vehicles should only enter or leave the site between the hours of 08:00 – 18:00 on weekdays and 09:00 – 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

(iii) Best practicable means shall be employed to minimise dust. Such measures

may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

(iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

04

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

#### POSITIVE AND PROACTIVE STATEMENT

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

To the Chairman and Members of the  
**PLANNING REGULATORY BOARD**

Date 10<sup>th</sup> March 2016

Report of the Director of Planning, Regeneration and Culture

ITEM NO.    SUBJECT

1            Appeal Decision – Dismissed

Appeal against refusal of planning permission to vary condition 02 (amended plans) imposed by RB2014/0727 (Installation of 2 No. turbines (24.8m hub height and 34.5 tip height)) at land at Parkcliffe Farm, Morthen Road, Wickersley, reference RB2015/0493

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY  
BOARD

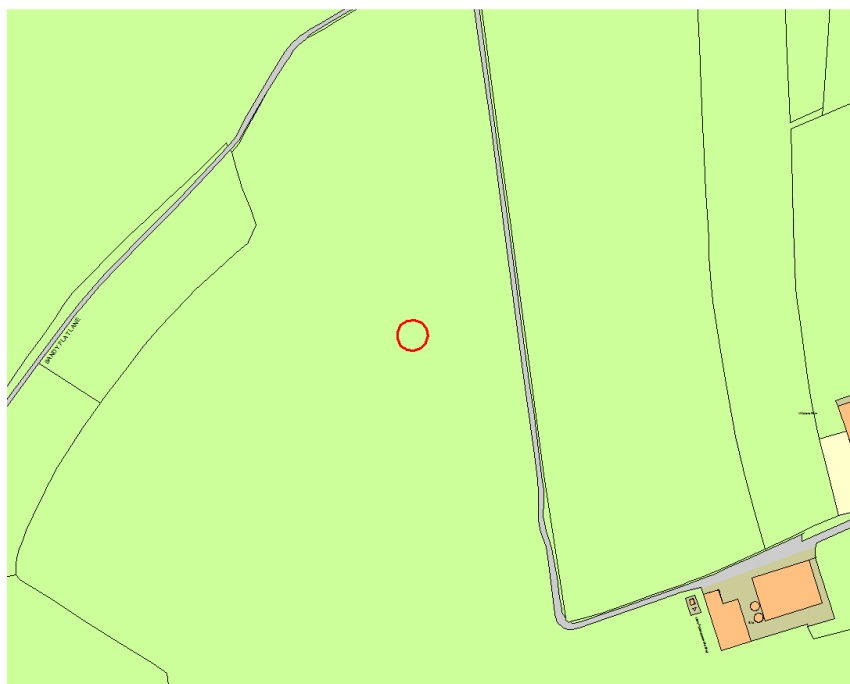
PLANNING, REGENERATION AND CULTURE

REPORT TO BOARD  
10<sup>th</sup> MARCH 2016

Item 1

Appeal Decision – Dismissed

Appeal against refusal of planning permission to vary condition 02 (amended plans) imposed by RB2014/0727 (Installation of 2 No. turbines (24.8m hub height and 34.5 tip height)) at land at Parkcliffe Farm, Morthen Road, Wickersley, reference RB2015/0493



**Recommendation**

That the decision to dismiss the appeal be noted.

**Background**

Planning permission for the erection of two turbines at the site (24.8m hub height and 34.5m tip height) was approved at Planning Board on 16/03/2015 (reference RB2014/0727). A subsequent application to vary condition 02 (amended plans) of this permission to increase the blade tip length by 2.1m and reduce the hub height by 0.8m on each turbine so that the productivity of the turbines could be increased by 33% was subsequently refused by Planning Board on 05/06/2015 (RB2015/0493). The applicant has appealed against this refusal and the Council has now been informed that the appeal has been dismissed.

A separate application for the installation of a single wind turbine with 24.8m hub height and 36.6m tip height remains undetermined (RB2015/0907).

Subsequent to the original grant of planning permission, a Written Ministerial Statement (WMS) dated 18<sup>th</sup> June 2015 has been issued which explains that where a valid planning application for a wind energy development has already been submitted to a local planning authority and the development plan does not identify suitable sites, transitional provisions apply whereby local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing.

### **Inspector's Decision**

The Inspector noted that it was accepted that the proposals represented inappropriate development in the Green Belt and considers the main issues to be –

#### The effect of the proposal on the openness of the Green Belt and the purposes of including land in it.

The existing, extant, planning permission for 2 No. 34.5m high turbines is a material consideration. Therefore when considering the openness the main focus was on the increase in height and the greater blade sweep. The Inspector considered that the approved turbines would reduce openness in this location to a moderate degree, and that the increase height to the tip of 2.1m and the resultant greater blade sweep would reduce openness further, albeit to a limited degree. The reduction in openness as a result of the larger proposed turbines would therefore be modest. This would result in harm to the Green Belt which attracts substantial weight.

#### The effect of the proposal on the character and appearance of the area.

The appeal site falls within an area defined in Rotherham Unitary Development Plan as an Area of High Landscape Value, and within National Character Area 38: Nottinghamshire, Derbyshire and Yorkshire Coalfield and the Central Rotherham Coalfield Farmland sub area. The Inspector noted that there are no other very tall man-made structures in the vicinity of the site, and that visually the increased blade tip height of the turbines and the greater blade sweep would be noticeable, compared to those approved, in closer views such as from Morthen Lane, Morthen Hall Lane, the public footpath on Sandy Flat Lane and the dwellings and gardens closer to the appeal site. In longer distance views, such as those from Worry Goose Lane, the proposed changes would be barely perceptible.

The Inspector considered that the effect of the proposal would result in modest additional material harm to the character and appearance of the area compared to the approved scheme.

#### Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The output of the proposed turbines would increase the output by 33%, it would supply the energy needs of Parkcliffe Farm, with the remainder directed into the National Grid. The proposal would contribute to Government renewable energy targets, reduce the emission of greenhouse gases and address climate change. The Inspector noted that these matters attract significant weight in favour of the proposal.



It is for the appellant to demonstrate very special circumstances if the project is to proceed. These 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 Inspector found that the proposal would result in a modest reduction in openness. Substantial weight must be attributed to the harm to the Green Belt, in accordance with paragraph 88 of the NPPF. In addition, the proposal would result in a modest amount of harm to the character and appearance of the area which attracts some weight. Additionally, the proposal does not have the backing of the local community since their concerns in relation to the Green Belt and the character and appearance of the area have not been addressed, as required by the Written Ministerial Statement.

The Inspector also concluded that on the positive side, significant weight is to be given to the environmental benefits of the proposal, above and beyond that which already has planning permission. However, the Inspector noted that according to the appellant, the original approved scheme would be unlikely to be a viable project because of a change in the feed in tariff in March 2015. The Inspector considered that these other considerations are insufficient to outweigh the harm by reason of inappropriateness and the other identified harm and as such do not amount to the very special circumstances necessary for the proposal to be acceptable.

#### Other Matters

A few letters of objection were submitted which raised other matters, including the noise impact of the turbines and the potential impact on ecology though the Inspector concluded that these matters were not significant.

#### **Conclusion**

The Inspector concludes that for the reasons stated and having regard to other matters raised, the appeal should be dismissed.