

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

Thursday, 11 June 2009

Start Time for Visits:- 9.00 a.m.

Start Time for Meeting:- 10.30 a.m.

At Town Hall, Moorgate Street, Rotherham

AGENDA

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Declarations of Interest (Pages 1 - 2)
(A form is attached and spares will be available at the meeting)
4. Minutes of the meeting of the Planning Regulatory Board held on 21st May, 2009 (herewith) (Pages 3 - 21)
5. Deferments/Site Visits (information attached) (Pages 22 - 23)
6. Visits of Inspection (report herewith) (Pages 24 - 34)
7. Development Proposals (report herewith) (Pages 35 - 127)
8. Report of the Director of Planning and Regeneration Service (herewith) (Pages 128 - 156)
9. Updates



ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY BOARD

MEMBERS' DECLARATION OF INTEREST

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

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

1. Personal

☐

You may stay in the room.

2. Personal/Prejudicial

☐

You may stay in the room (public allowed to attend meeting for same purpose) for the purpose of making representations, answering questions or giving evidence. You may not take part in the discussion or observe the vote.

3. Personal/Prejudicial

☐

You must leave the room (where ordinary member of the public not allowed to speak on the matter e.g. exempt item)

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

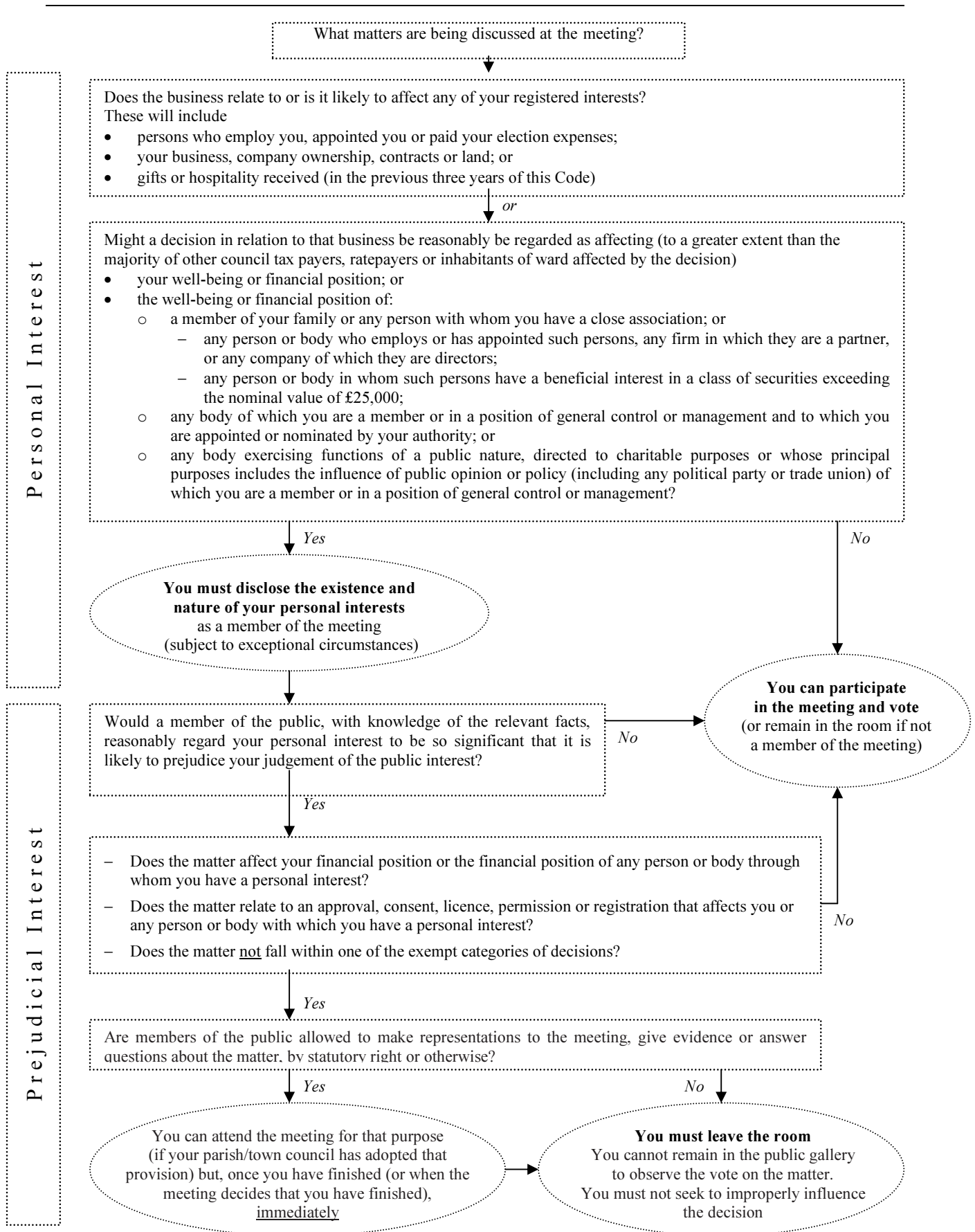
(Please continue overleaf if necessary)

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 Representative/Committee Clerk prior to the meeting.

Signed:-

(When you have completed this form, please hand it to the Committee Clerk.)

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



PLANNING BOARD
Thursday, 21st May, 2009

Present:- Councillor Pickering (in the Chair); Councillors Atkin, Austen, Dodson, Kaye, McNeely, Nightingale, G. A. Russell, R. S. Russell, Smith, Turner, Walker and Whysall.

Apologies for absence:- Apologies were received from The Mayor (Councillor S Ali), Councillors Akhtar, Burton, License and Littleboy.

1. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

2. MINUTES OF THE MEETING OF THE PLANNING REGULATORY BOARD HELD ON 30TH APRIL, 2009

Resolved:- That the minutes of the meeting of the Planning Regulatory Board held on 30th April, 2009, be approved as a correct record for signature by the Chairman.

3. DEFERMENTS/SITE VISITS

There were no Site Visits or deferments recommended.

4. VISIT OF INSPECTION - APPLICATION FOR THE ERECTION OF A FOUR, FIVE AND SIX STOREY BUILDING TO FORM CIVIC OFFICES WITH ASSOCIATED BASEMENT CAR PARKING, FLOOD PROTECTION AND IMPROVEMENTS TO DON STREET/MAIN STREET JUNCTION AT FORMER GUEST AND CHRIMES SITE, MAIN STREET, ROTHERHAM TOWN CENTRE FOR EVANS REGENERATION INVESTMENTS LTD. (RB2009/0016)

Before the formal meeting of the Planning Board, Members of the Board made a visit of inspection to the above site.

A presentation pack providing photo montages of the proposed building were made available on site. An addendum to the report, drawing attention to the consultation paper published by the Department for Communities and Local Government, and a letter from Government Office for Yorkshire and the Humber were submitted to Members prior to the meeting.

In accordance with the right to speak procedure, Mr. J. Pitt (Applicant) attended the meeting and spoke about this application.

A letter of objection from Satnam Planning Services Ltd. received on the 20th May, 2009 was also read out at the meeting.

Resolved:- (1) That the application be referred to the Government Office for Yorkshire and the Humber pursuant to the Article 14 Direction issued by the Government Office on 20th May, 2009.

(2) That consequent upon the Government Office deciding not to intervene planning permission be granted subject to:-

(i) Completion of an agreement between the Developer and the Council pursuant to Section 106 of the Town and Country Planning Act 1990 for the purposes of ensuring the provision of a bus shelter at the existing bus stop on Corporation Street/Domine Lane with a maximum contribution to the Integrated Transport Executive of £6,500.

(ii) The reasons for grant as adopted by Members at the meeting and appended to the minutes and the conditions detailed below:-

1. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by WSP dated December, 2008 and following mitigation measures detailed within the FRA:-

- a. Limiting the surface water runoff from the development site to Holmes Tail Goit and/or River Don (with a 30% reduction from existing runoff rates, to be achieved via an attenuation tank on site).
- b. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven on higher ground via Main Street (as stated in the FRA).
- c. Finished floor levels are set no lower than 28.25mAOD, as stated in the FRA (1 in 100 modelled water level plus climate change plus freeboard).
- d. Crest levels of the flood defence bund are set no lower than 27.35 mAOD, as stated in the FRA (1 in 100 year modelled water level plus climate change plus freeboard).

2. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

3. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

4. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning

Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

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

6. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to, and approved by, the Local Planning Authority before development commences.

7. No development shall take place until details of the proposed means of disposal of foul water drainage, including details of any balancing works and off site works, have been submitted to, and approved by, the Local Planning Authority.

8. Unless otherwise approved in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

9. 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.

10. Within six months of the building being fully occupied, an assessment shall be undertaken by the occupiers of the building of the impact of any overspill car parking within the area indicated on the attached plan and a scheme of measures to address any identified adverse impact of such parking shall be submitted to, and approved by, the Local Planning Authority. Those measures shall be instigated within twelve months of the building being fully occupied.

11. Before the development is brought into use the car parking area shown on the submitted plan shall be provided, surfaced, sealed and drained in a manner to be approved in writing by the Local Planning Authority, marked out and thereafter maintained for car parking.

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

13. Notwithstanding the details indicated on the submitted plan, details of cycle parking facilities shall be submitted to, and approved by, the Local Planning Authority and the approved details shall be provided before the building is occupied.

14. Before the proposed development is brought into use, a Travel Plan shall have been submitted to, and approved by, the Local Planning

Authority. The plan shall include clear and unambiguous objectives, modal split targets together with a programme of implementation, monitoring, validation and regular review and improvement. The Local Planning Authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan following submission of progress performance reports as time tabled in the monitoring programme.

15. Before the building is occupied, a Car Park Management Strategy shall be submitted to, and approved by, the Local Planning Authority and the approved details, which shall include the provision of on site car parking for use by visitors to the building, shall be implemented upon the first occupation of the building.

16. All remedial works are to be undertaken in accordance with the specifications and conditions detailed in both the Detailed Remediation Strategy and Technical Specification, dated June 2007 (ref. 13010621.0607.DRS.pf) and the EML2 Deployment Form and supplementary information for the Mobile Treatment Licence dated 22/06/2007.

17. In areas of proposed soft landscaping a capillary break layer and capping layer of 600mm minimum of subsoil/topsoil will be required. If cover material is to be imported to site the soils are to be validated at an agreed frequency with the Local Planning Authority.

18. The concrete to be used in all ground/sub-ground structures will be Design Sulphate Class DS3, AC-4.

19. Prior to the first occupation of the building, full details of the proposed installation, positions and specification of CCTV cameras and coverage (which should include the external areas of the building, building foyer and entrance to the car park) shall be submitted to and approved in writing by the Local Planning Authority. The approved CCTV shall be installed prior to the first occupation of the building.

20. Prior to the commencement of development details of the methods of restricting vehicular access to the plaza area (with the exception of emergency vehicles) shall be submitted to and approved in writing by the Local Planning Authority. The methods approved shall be implemented prior to the first occupation of the building.

21. The operator shall install and thereafter utilise as appropriate, wheel washing facilities on the site for the duration of the construction period. Prior to its installation on site, full details of its specification and siting shall be first agreed with the Local Planning Authority.

22. All loaded lorries leaving the site during the construction period shall be securely and effectively sheeted.

23. At all times during the construction period, best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment.

24. Prior to the commencement of development full details of lighting, street furniture and litter bins for the external areas shall be submitted to, and approved in writing by, the Local Planning Authority. The external lighting, furniture and litter bins shall be installed in accordance with those approved details. A maintenance plan for the street furniture and bins shall be submitted to and approved in writing and the equipment shall be maintained in accordance with the approved details.

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

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

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

26. 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 within the next planting season.

27. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development

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

28. Prior to the first occupation of the building details including scaled plans showing the public art proposed to be included within the publicly accessible square shall be submitted to and approved in writing by the Local Planning Authority. A phasing plan shall also be submitted detailing the timescales of the installation of the approved public art and the public art shall be implemented within 3 months of the first occupation of the building.

29. The development shall not be commenced until details of the proposed realignment of Don Street, indicated in draft form on Figure 7 of the Transport Assessment, have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the building is occupied.

30. The development shall not be commenced until details of the proposed parking bays in Main Street fronting the site, indicated in draft form on plan reference 1798-SK-09 revision E, have been submitted to, and approved by, the Local Planning Authority and the approved details shall be implemented before the building is occupied.

31. The existing and proposed realigned footway fronting Main Street shall be increased in width to 3 metres before the building is occupied.

32. The development shall not be commenced until details of the “zebra” crossing at Main Street in the vicinity of the Don Street junction, as indicated in draft form on plan reference 1798-SK-08 revision A, have been submitted to, and approved by, the Local Planning Authority and the approved details shall be implemented prior to the occupation of the building.

33. Prior to the commencement of development, details of the chosen methods of achieving at least 10% of energy demand through decentralised or renewable energy shall be submitted to and approved in writing by the Local Planning Authority. Those approved technologies shall be installed and operational prior to the first occupation of the building.

34. Prior to the occupation of the building full details of the proposed bird and bat nesting boxes shall be submitted to, and approved in writing by, the Local Planning Authority. The agreed scheme shall be implemented within 3 months of the first occupation of the building.

35. 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).

Reasons:-

1. (a) To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- (b) To ensure safe access and egress from and to the site.
- (c) To reduce the impact of flooding on the proposed development and future occupants.
- (d) To reduce the risk of flooding to the proposed development and future occupants.
2. To reduce the risk of pollution of the River Don, a controlled water, to an acceptable level.
3. To reduce the risk of pollution to the River Don, a controlled water, to an acceptable level.
4. To reduce the risk of pollution to the River Don, a controlled water, to an acceptable level.
5. In the interest of satisfactory and sustainable drainage.
6. To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.
7. To ensure that the development can be properly drained.
8. To ensure that no foul water discharges take place until proper provision has been made for its disposal.
9. In the interest of satisfactory drainage.
10. In the interests of the amenity of local residents and road safety.
11. To ensure the provision of satisfactory garage/parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.
12. No details having been submitted they are reserved for approval.
13. In the interest of encouraging the use of sustainable methods of transport.
14. In order to promote sustainable transport choices.
15. In the interests of sustainable travel and to ensure the provision of

appropriate car parking provision for visitors to the building.

16. To ensure that the remedial works are carried out in accordance with submitted details.

17. To ensure any residual contamination is prevented from migrating to the surface of the site.

18. To ensure against attack from residual contamination remaining in the ground.

19. To ensure a safe and inclusive environment.

20. To ensure a safe and inclusive environment.

21. In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity.

22. In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity.

23. In the interests of local amenity.

24. In the interest of ensuring adequate and well designed lighting and furniture.

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

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

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

28. In the interest of securing appropriate and acceptable public art in the interest of the visual amenity of the vicinity.

29. In the interest of highway safety.

30. To ensure adequate provision of visitor disabled parking bays.

31. In the interest of pedestrian safety.
32. To enable adequate pedestrian linkages to the town centre and in the interest of pedestrian safety on Main Street.
33. To ensure that at least 10% of energy demand for the building is achieved through decentralised or renewable energy sources in line with RSS Policy ENV5.
34. In the interest of securing biodiversity improvements in line with RSS Policy ENV8 'Biodiversity' and PPS9.
35. In the interest of amenity.

5. DEVELOPMENT PROPOSALS

Resolved:- (1) That, on the development proposals now considered, decisions be recorded as set out in the schedule now submitted and the requisite notices be issued (a copy of this schedule, together with the schedule of decisions made under delegated powers, will be made available when the printed minutes are produced).

(2) That the time limits specified in Sections 91 and 92 of the Town and Country Planning Act 1990 apply to the decisions referred to at (1) above.

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

- Application for variation to Conditions 1 and 2 (number of children & opening hours) to allow up to 36 children and opening hours of 8.00 a.m. to 6.00 p.m. Monday to Friday at Fenwood House, 66 Fitzwilliam Street, Swinton for Fenwood House Day Nursery (RB2009/0240)

Ms. V. Moffitt representing Rev. Pimm (Objector)

- Change of use of part of building to healthcare facility at The Brampton Centre, Brampton Road, Wath upon Dearne for Wentworth Primary Care Ltd. (RB2009/0333)

Mr. W. Hopwood (Objector)

Mrs. E. A. Dodson (Objector)

(3) That application RB2009/0122 be removed from the agenda at the applicant's request.

(4) That application RB2009/0240 be refused for the reasons listed in the report.

(5) That application RB2009/0333 be granted for the reasons adopted by Members at the meeting and appended to the minutes and subject to the relevant conditions listed in the report along with an additional informative requesting that none of the lighting should overspill into nearby garden areas or residential properties.

(6) That applications RB2009/0372 and RB2009/0425 be granted for the reasons adopted by Members at the meeting and appended to the minutes and subject to the relevant conditions listed in the report.

(7) That application RB2009/0415 be deferred pending a further period of consultation with the new landowners.

6. APPLICATION FOR REALIGNMENT AND DUAL CARRIAGEWAY IMPROVEMENTS TO THE A57, INCLUDING PEDESTRIAN SUBWAY, CONTROLLED PEDESTRIAN CROSSING AND ROUNDABOUT AT TODWICK CROSSROADS (APPLICATION UNDER REGULATIONS 3 AND 9A OF THE TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992) AT LAND AT SHEFFIELD ROAD, TODWICK FOR RMBC (DESIGN AND ENGINEERING SERVICE) (RB2009/0260)

Consideration was given to a report by the Director of Planning and Regeneration Service, which detailed the above application for planning permission.

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

Mr. D. Oldham (Applicant)
Mr. D. Hartley (Objector)
Dr. J. Downs (Objector)
Mr. S. Hill (Objector)

Discussion ensued at length on the proposals for the dual carriageway between Junction 31 of the M1 Motorway and Todwick Crossroads with a roundabout some 60 m to the north of the existing crossroads and it was suggested that further discussions take place with the owner of Grange Farm to try and address some of the concerns the owner had.

Resolved:- (1) That the application be referred to Government Office for Yorkshire and the Humber, under the Town and Country Planning (Green Belt) Direction 2005.

(2) That consequent upon the Government Office deciding not to intervene planning permission be granted for the reasons adopted by Members at the meeting and appended to the minutes and subject to the following conditions:-

Conditions:-

1. No development shall take place within the area indicated within the red edge on the plan attached to this permission until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
2. 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.
3. Details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work, shall be submitted to, and approved by, the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.
4. No tree shall be cut down, uprooted or destroyed nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
5. Prior to commencement of development, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:-
 - The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
 - The extent of any changes to existing ground levels, where these are proposed.
 - Any constraints in the form of existing or proposed site services, or visibility requirements.
 - Areas of structural and ornamental planting that are to be carried out.
 - The positions, design, materials and type of any boundary treatment to be erected.
 - A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
 - A written specification for ground preparation and soft landscape works.
 - The programme for implementation.
 - Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice within a timescale agreed, in writing, by the Local Planning Authority.

6. 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.

7. No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

8. All tree works shall be carried out in accordance with B.S.3998: 1989. The schedule of all tree works shall be approved by the Local Planning Authority before any work commences and no tree work shall commence until the applicant or his contractor has given at least seven days notice of the intended starting date to the Local Planning Authority. The authorised works should be completed within three years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

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

10. Within the first available planting season after the commencement of the development on site the ecological mitigating measures identified in the submitted Ecological assessment shall be implemented to the reasonable satisfaction of the Local Planning Authority.

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

Reasons:-

1. To ensure that any archaeological remains are recorded or preserved in accordance with UDP policies ENV2 'Conserving the Environment', ENV 2.2 'Interest Outside Statutorily Protected Sites' and ENV2.3 'Maintaining the Character and Quality of the Environment'.
2. To prevent pollution of any watercourse in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.
3. 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'.
4. In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
5. To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
6. To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
7. To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
8. To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
9. In the interests of the residential amenities of existing residents in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan.
10. In order to enhance the biodiversity and geological interests of the

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

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

7. ERECTION OF 9 NO DWELLINGS IN LIEU OF 22 APARTMENTS (AMENDMENTS TO DETAILS APPROVED UNDER RB2007/1383) AT FORMER WORKING MENS CLUB, CRANE ROAD, KIMBERWORTH PARK, ROTHERHAM FOR BARRATT SHEFFIELD (RB2009/0414)

Consideration was given to a report by the Director of Planning and Regeneration Service, which detailed the above application for planning permission, which was an amendment to details previously approved under RB2007/1383.

Resolved:- (1) That the Council enter into a supplemental agreement with the developer under Section 106 of the Town and Country Planning Act 1990 to link this development with the original permission granted on the site overall (RB2007/1383).

(2) That, upon the satisfactory conclusion of such an agreement, the Council grant permission for the reasons adopted by Members at the meeting and subject to the following conditions:-

1. 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.

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

3. 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.

4. Effective steps shall be taken by the developer to prevent the deposition of mud and other material on the adjoining public highway caused by vehicles entering and leaving the site during the construction of the development.

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

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

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

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice within a timescale agreed, in writing, by the Local Planning Authority.

7. Any plants or trees which within a period of five 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.

8. No work or storage on the site shall commence until all the

trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to, and approved by, the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

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

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

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

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

13. Except in case of emergency, no operations shall 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 shall 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 shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

14. Heavy goods vehicles shall 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 shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

15. Unless otherwise agreed in writing no building or obstruction shall be located over or within 3 m either side of the centre line of the water main which crosses the site.

16. Before the development, hereby approved, is commenced on site details of a scheme for the provision and implementation of a surface water run off limitation to the existing 1 in 1 year rate shall be submitted to, and approved by, the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

Reasons:-

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

2. 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'.

3. 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'.

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

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

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

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

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

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

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

11. In order to promote sustainable transport choices.

12. In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan

13. In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

14. In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

15. To ensure adequate access for maintenance of the water main.

16. To prevent the risk of flooding in accordance with advice in PPS 25 Development and Flood Risk.

8. APPEAL DECISION - AGAINST REFUSAL OF PLANNING PERMISSION FOR THE CONSTRUCTION OF AN EXTERNAL TIMBER SMOKING SHELTER AT THE THREE MAGPIES PUBLIC HOUSE, BONET LANE, BRINSWORTH (RB2008/0537)

Consideration was given to a report by the Director of Planning and Regeneration Services, which detailed an appeal against the refusal of planning permission for the construction of an external timber smoking shelter at the Three Magpies Public House, Bonet Lane, Brinsworth.

The Inspector dealing with the appeal dismissed it and concluded that the proposal would have an adverse effect on the living conditions of nearby residents in terms of noise and disturbance, privacy and air pollution, contrary to the provisions of Policy ENV3.7 in the Rotherham Unitary Development Plan (UDP).

The Inspector further stated that the appeal property had two patio areas with umbrellas on either side of the main entrance and a large beer

garden to the south, so there was no shortage of outdoor space away from residential property for patrons to smoke. The Inspector went on to state that they understood the appellant's argument that smokers congregating close to the main entrance may deter other customers and that this was undesirable in a financially difficult climate. However, the Inspector did not regard this as a convincing argument for accepting a proposal, which could give rise to problems for neighbouring occupiers.

Resolved:- That the decision to dismiss the appeal be noted.

9. UPDATES

There were no updates to report.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL
PLANNING REGULATORY BOARD

DEFERMENTS

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

SITE VISITS

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

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY BOARD

VISIT OF INSPECTION – THURSDAY, 11TH JUNE, 2009

1. **RB2009/0400 - Erection of 2 No. buildings to form two/three retail units for use within class A1 at former DC Cook site Fitzwilliam Road, Eastwood for Netto Foodstores Ltd.**

Agent:- Sanderson Weatherall, 25 Wellington Street, Leeds. LS1 4WG

Requested By:- Chairman and Vice-Chairman of the Planning Board

Reason:- To allow Members to take account of all information before coming to a decision.

2. **RB2009/0122 - Extension to park & ride car parking area at Swinton Railway Station, Lime Grove, Swinton for SYPTE.**

Agent:- Mott MacDonald, 111 St. Mary's Road, Sheffield. S2 4AP

Requested By:- Chairman and Vice-Chairman of the Planning Board

Reason:- To allow Members to take account of all information before coming to a decision.

<u>No.</u>	<u>Application</u>	<u>Area</u>	<u>Arrival</u>	<u>Departure</u>
1.	RB2009/0400	Eastwood	9.10 a.m.	9.30 a.m.
2.	RB2009/0122	Swinton	9.45 a.m.	10.05 a.m.

Return to Town Hall at approximately 10.30 a.m.

SITE VISIT NO. 1 (Approximate time on site - 9.10 a.m.)

Site Visit Only.

This application is then to be discussed at meeting of the Planning Board to be held during July, 2009, due to ongoing discussions with the Agent and Applicant.

SITE VISIT NO. 2 (Approximate time on site - 9.45 a.m.)

RB2009/0122

Extension to park & ride car parking area at Swinton Railway Station Lime Grove Swinton for SYPTE

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

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

- a) Development Plan

- (i) Regional Spatial Strategy

POLICY T2: 'Parking policy' indicates that proposals that help manage the demand to travel and support the use of public transport will be supported with a progressive reduction in long stay parking (other than at railway stations to serve rail users and at other locations serving a park and ride function). Park and ride facilities, for both rail and bus modes, coupled with increased use of public transport through service level improvements will be supported.

- (ii) UDP Policy

EC3.2 'Land Identified for Business Use' indicates that development proposals should not have an adverse impact on residential amenity or on the character of the area and there should be adequate arrangements for the parking and manoeuvring of vehicles

ENV3.1 'Development and the Environment' indicates that development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality and site features.

- b) National Planning Policy

PPG13 'Transport' indicates a strong preference for integrated transport infrastructure with a particular emphasis on promoting public transport, walking, and cycling along with the reduction of need for some car journeys

2. For the following reasons:

The principle of extending the existing park and ride car parking area is acceptable under RSS Policy T2 and National Policy PPG13 'Transport'. The erection of a 2 metre high close-boarded fence is considered to mitigate the increase in noise and disturbance from the increased car parking area. The

additional vehicular access to be used as an exit only is considered to be acceptable from a highway safety perspective. It is not considered that the removal of the existing storage area would result in any loss of amenity.

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

Conditions Imposed:

01

[PC17*] Before the development is brought into use the sight lines indicated on the attached plan shall be rendered effective by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

02

[PC 24] 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.

03

[PC27*] Before the development is brought into use the car parking area shown on the submitted plan shall be provided, marked out and thereafter maintained for car parking.

04

The proposed egress from the extended car park shall be clearly signed "Exit Only" and "No Entry" before the development is brought into use.

05

[PC38C]

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

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

The extent of any changes to existing ground levels, where these are proposed.

- Any constraints in the form of existing or proposed site services, or visibility requirements.

- Areas of structural and ornamental planting that are to be carried out.

- The positions, design, materials and type of any boundary treatment to be erected.

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

- A written specification for ground preparation and soft landscape works.

The programme for implementation.

- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice within a timescale agreed, in writing, by the Local Planning Authority.

06

[PC38D]

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.

07

Prior to the commencement of the development a close boarded 2 metre high acoustic fence shall be erected on the western boundary of the site with 74 Lime Grove and maintained for the duration of the development.

08

The lighting columns shall not operate after 00.00 hours.

Reasons for Conditions:

01

[PR17] To provide and maintain adequate visibility in the interests of road safety.

02

[PR24A] 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.

03

[PR27] To ensure the provision of satisfactory garage/parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

04

In the interests of highway safety.

05

[PR38C] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

06

[PR38D] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

07

In order to protect the amenity of nearby residential properties.

08

In order to protect the amenity of nearby residential properties.

Informative

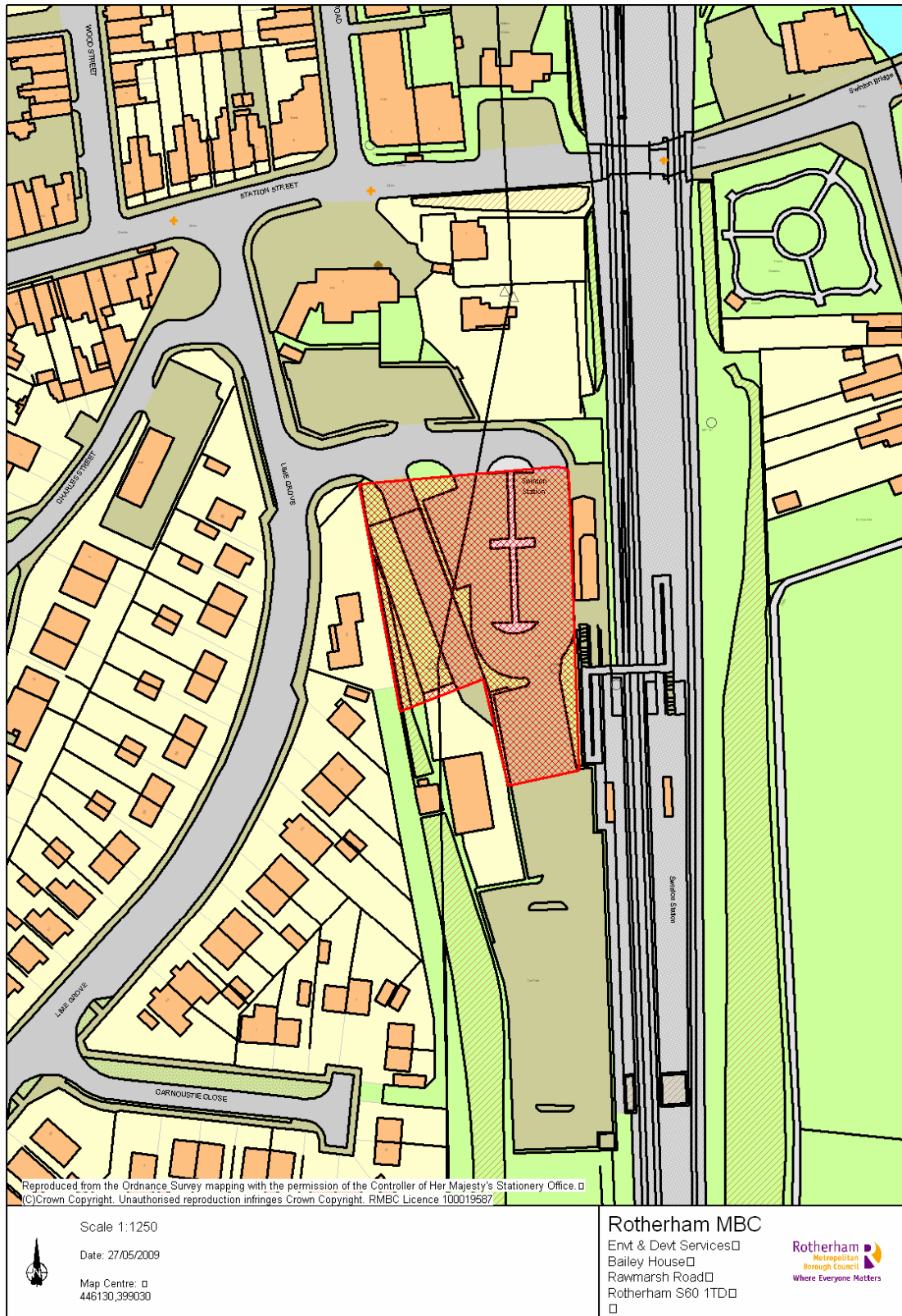
It is recommended that the following advice is followed to prevent a nuisance/ loss of amenity to local residential areas. Please note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust. If a statutory nuisance is found to exist they must 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 bowsters, 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.



Background

The current location of the Swinton Interchange was approved in 1989 under application RB1989/0491 after a number of years when the town was not served by a railway station. The car parking area to served the station was then enlarged in 1991 (RB1991/1114) and 1999 (RB1999/1348).

Site Description & Location

The site relates to Swinton Railway Station which was built in this location in 1989 after the original station, north of Station Street closed in the 1960s. There is an existing car park that lies to the west of the station buildings and railway lines with capacity to park and operates as a . The site area of the application is approximately 2400 square metres and the area of the existing car parking area is approximately 4700 square metres.

The station is within 500 metres of the town centre and has connections to mainly local destinations within South and West Yorkshire.

Proposal

The applicant is the SYPTE who propose to extend the area of the existing park and ride car park as it is often full or approaching its capacity. The number of spaces will increase by 34 spaces from 148 spaces to 182 of which 9 will be disabled bays, and 6 will be parent and child bays. In addition to the parking bays there will be an additional 7 cycle stands. The layout of the car park would involve the provision of an additional exit point to the west of the existing exit. The increase in site area would be the area to the west of the current car parking area between the car park and the rear gardens of properties along Lime Grove. This area is within the SYPTE's ownership and is currently vacant and in a derelict state. This land has been used to store SYPTE equipment.

In addition it is proposed to erect 2 additional CCTV columns and 4 lighting columns that will be a total of 4 metres in height.

Development Plan Allocation and Policy

The site is allocated for Business purposes in the Development Plan.

01 RSS Policies

POLICY T2: 'Parking policy' indicates that proposals that help manage the demand to travel and support the use of public transport will be supported with a progressive reduction in long stay parking (other than at railway stations to serve rail users and at other locations serving a park and ride function). Park and ride facilities, for both rail and bus modes, coupled with increased use of public transport through service level improvements will be supported.

02 UDP Policies

EC3.2 'Land Identified for Business Use' indicates that development proposals should not have an adverse impact on residential amenity or on the character of the area and there should be adequate arrangements for the parking and manoeuvring of vehicles.

ENV3.1 'Development and the Environment' indicates that development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality and site features.

None of the trees within the station site are protected by a Tree Preservation Order.

Other Material Considerations

PPG13 'Transport' indicates a strong preference for integrated transport infrastructure with a particular emphasis on promoting public transport, walking, and cycling along with the reduction of need for some car journeys.

Publicity

All relevant neighbours were informed by letter on 6 February 2009 and a site notice was also erected on 6 February 2009.

A total of 15 letters of objection have been received. The letters follow an identical template and can be summarised as follows:-

- Some of the landscaping on the site has been recently removed in breach of a condition on the originally approved 1989 application.*

All objectors were then further notified of the amendments to the site layout. There have been no additional letters of objection.

Consultations

Access Officer – no objections

Transportation Unit – no objections subject to conditions

SYLTE have consulted local residents by letter in December 2008 of their intentions prior to the submission of a planning application.

Appraisal

The main considerations in the determination of this application are as follows:-

- The principle of extending the existing car park at Swinton Station.*
- Impact on the residential amenity of the surrounding properties in terms of increased noise, disturbance and light pollution.*
- Highway safety implications.*

- Landscaping and loss of trees

The principle of extending the existing car park

The land is allocated for business purposes in the Development Plan. RSS Policy T2 along with National Policy PPG13 'Transport' indicate a strong preference for integrated transport with a particular emphasis on promoting public transport, walking, and cycling along with the reduction of some of the need for car journeys. It is considered that an increase in the number of car parking bays may increase the number of short car journeys made but would generally encourage greater use of public transport at the Swinton Interchange for longer journeys. Overall it is considered that this would reduce total car mileage and improve transport sustainability. In policy terms the principle of this car park extension is considered acceptable.

Impact on the residential amenity of the surrounding properties

The extended car parking area would bring the car parking area approximately 8 metres nearer to residential properties along Lime Grove, and would be bring the boundary of the site adjacent no. 74. It is expected that there would be a general increase in noise and disturbance from vehicular manoeuvring on the rear gardens of Lime Grove. In terms of boundary treatment the applicant has indicated that it is proposed to erect a 2 metre high close-boarded fence to reduce the impact of increased noise. It is considered that this fence would be more substantial than this existing 'hit and miss fence' and would help to reduce the levels of noise. In terms of impact from light pollution and loss of privacy, the applicant has indicated that the lights to car park would not be used beyond 12 midnight, or 30 minutes after the last train. This is considered to have an overall acceptable impact on residential amenity and it is considered to conform to the requirements of Policy ENV3.7 'Control of Pollution'. The existing site area is comprised of an area of rough scrubland and it is not considered that the loss of this land would result in any loss of amenity to the surroundings.

Highway safety implications

The Transportation Unit have indicated that there are no objections from a highway safety perspective. It is considered that visibility can be adequately controlled via condition.

Landscaping and loss of trees within the site

Landscaping works were agreed and implemented in line with a condition imposed under the original 1989 application. At the end of 2008, some of the trees that lie outside the site area were removed for maintenance issues. The applicants have indicated that it is not practical to put trees between the fencing and the boundary with residential properties due to the difficulty of future maintenance.

Conclusion

The principle of extending the existing park and ride car parking area is acceptable under RSS Policy T2 and National Policy PPG13 'Transport'. The erection of a 2 metre high close-boarded fence is considered to mitigate the increase in noise and disturbance from the increased car parking area. The vehicular access is considered to be acceptable from a highway safety perspective. It is not considered that the removal of the existing storage area would result in any loss of amenity.

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
11TH JUNE, 2009**

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

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RB2009/0342 Change of use to indoor junior football and bowling facility at The Store Room, Fitzwilliam Road, Eastwood for Mr. S. Saeed.	Page 60
RB2009/0381 Change of use from car rental office (Use Class B1) to aesthetics clinic (Use Class D1) at 1 Wharnccliffe Street, Rotherham Town Centre for Mrs. Bradbury & Mrs. Chester.	Page 66
RB2009/0393 Replacement spillway with pedestrian footbridge, stabilisation of dam wall, new draw-off pipe, new wildlife pond, infill existing spillway, enhancement of riprap wave protection and lowering of dam crest by 0.5m (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) at Ulley Reservoir Pleasley Road, Aughton for RMBC.	Page 71
RB2009/0420 Completion of site capping by placement of a low permeability layer to seal exposed waste material, creation of lagoon to attenuate surface water run-off from new capping and extension of the period of final planting to 1st June 2014 (previously approved under RB2008/0624) at former Laporte Landfill, Gin House Lane, Thornhill for Laporte Industries Ltd.	Page 91
RB2009/0436 Erection of a single storey building to form food store and 5 No. units with variation to condition 19 (delivery hours) imposed by RB2008/1032 to allow deliveries between the hours of 0730-2200 hours Monday to Saturday and 0830- 2200 hours Sundays and Bank Holidays at land at Manvers Way, Manvers for Aldi Stores Ltd.	Page 101

RB2009/0456 Change of use to aesthetics and cosmetics teaching and treatment (Use Class D1) at Unit B12 Taylors Court, Parkgate for Evemia Ltd.	Page 112
RB2009/0457 Retrospective application for formation of spoil heap (Application under Regulations 3 & 9A of the Town and Country Planning General Regulation 1992) at Canklow Woods Primary School, Wood Lane, Canklow for RMBC Education.	Page 116
RB2009/0510 Two storey side & single storey rear extensions and porch to front at 62 Boundary Green, Rawmarsh for Mr. & Mrs. West.	Page 122

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

RB2008/1168

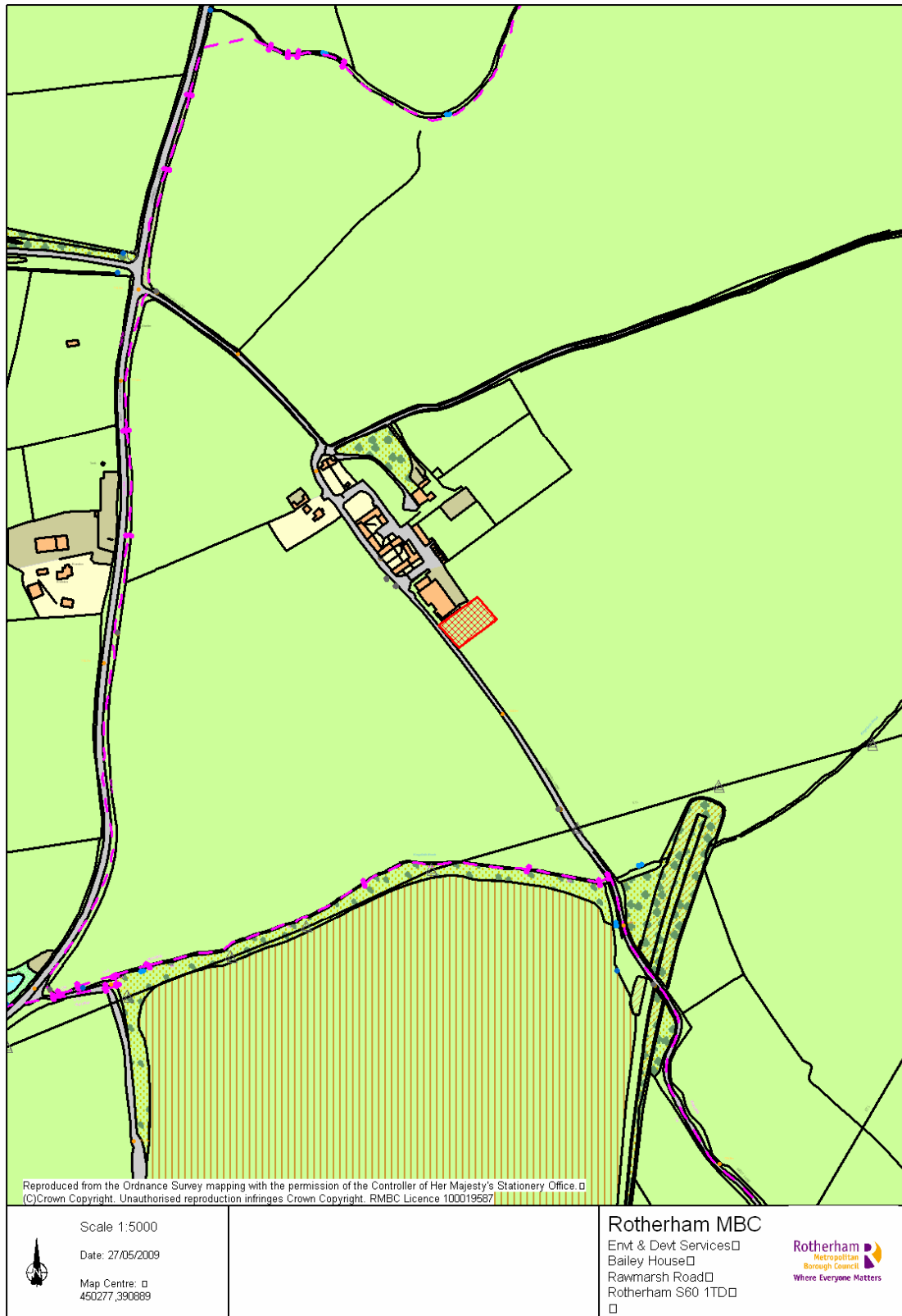
Erection of a building to form grain store, formation of landscaped bund and alterations to highway to form enlarged turning facility at The Farm, Newhall Grange, Newhall Lane, Carr for S. Hinchcliffe & Son.

RECOMMENDATION: REFUSED

Reasons for Refusal:

01

The Council considers that the application lacks sufficient information in respect of the proposed air drying/handling equipment and the proposed mitigation measures, post installation monitoring, maintenance and future testing of equipment to enable the Local Planning Authority to assess the likely impact of the proposal on the residential amenities of the occupiers of adjacent properties. Without such information it is considered the proposal fails to accord with Policy ENV3.7 'Control of Pollution' of the Unitary Development Plan and national planning guidance in PPS7 'Sustainable Development in Rural Areas' and PPG24: 'Planning and Noise'.



Background

Members will recall this particular application was deferred following a site visit on 20 November 2008 to allow the applicant to discuss issues regarding the outstanding noise survey and alternative access arrangements. Since that time officers have met with the applicant in regards to the possible alternative access arrangements and further information has since been submitted with respect to a revised noise survey. The amended details are now considered in this planning report.

A search of Council records has revealed a number of planning permissions relating to agricultural buildings at the site as set out as follows: -

RH1966/5099 - General purpose farm building
GRANTED - 06/02/67

RH1972/7214 - Grain drying store general purpose agricultural building
GRANTED 06/03/72

RB1978/1679 - Outline application for erection of cattle shed
GRANTED CONDITIONALLY 19/07/78

In addition to the above, of relevance to the current application are: -

RB1991/1278 - Notice of intent to fell 4 dead trees protected by TPO no1 1952
NO OBJECTIONS 17/10/1991

RB2001/0318 - Conversion of barns into 6 dwellings
GRANTED CONDITIONALLY 23/05/02

RB2001/0320 - Listed Building Consent for the conversion of barns into 6 dwellings
GRANTED CONDITIONALLY 23/05/02

RB2006/0865 - Retrospective application for the formation of a vehicular access
GRANTED CONDITIONALLY 28/06/2006

Site Description and Location

The site comprises part of the larger Newhall Grange complex which is found in an open location within the Green Belt. The complex comprises of the original detached farmhouse; a small storeroom (including farm office/kitchen) and utilitarian farm storage buildings the two largest being constructed of brick with fibre cement cladding walls and roof approximately 22 metres wide and ranging in overall length by some 36 metres. The overall heights of these buildings range approximately 5.1 metres to the eaves level and 7.6 metres to the ridge and are primarily used for the storage of potatoes and corn. A smaller building to the north of the existing storage buildings of approximately 15 metres wide by 7 metres in length and of similar height to those adjacent is used for storage, repair and maintenance of agricultural vehicles.

The complex further comprises of a number of converted barns all of which are now in residential use. The northern range consists of grade II listed properties, whilst the southern range comprises of single storey stone buildings constructed with pantiled roof, the two closest properties (Oak Barn and The Nook) have main aspect over the access road. Parking arrangements for these converted buildings consists of small hard standing areas set in front and to the side of the now converted properties, as well as a single storey open fronted 'cart shed' style building which provides undercover parking (1 space), with a further tandem space being available and located within the existing shared central courtyard area.

Vehicular access to Newhall Grange complex is via Newhall Lane which is a 'C' classified highway of single width in nature with various passing places which links Hellaby to the north with Carr to the south. Signage erected at both ends of Newhall Lane advises that Newhall Lane is unsuitable for HGVs. There are a number of existing accesses which serve the Newhall Grange complex which includes a gated entrance to the farm house itself, an entrance/exit for the barn conversions at the north of the complex, along with an entrance/exit at the south of the complex, this latter access is shared by both the converted residential barns and the existing farmyard buildings.

The complex is surrounded by open agricultural fields to the north (part), west, south and east. A belt of trees comprising of Lombardy Poplars, Poplars and Sycamores located upon the land opposite the southernmost access forms part of the wider Tree Preservation Order 1952 no. 1.

Proposal

The application seeks full planning permission for the construction of a portal framed grain store building and incorporates an area of some 1075 sq metres of part open yard, and part arable field to the southern end of the existing farm complex and would be sited to the south east of the existing farm storage buildings. The storage building is proposed to be constructed of reinforced concrete panel walls and pressed steel side cladding and fibre cement roof, measuring some 42.6 metres in overall length by 24.3 metres in width. The overall height of the building is indicated at approximately 7.9 metres to the eaves and 10.5 metres to the ridge.

An integral part of the buildings' construction is the installation of an internal air drying system which would entail the installation of a centrifugal fan and entry and exit louvres being positioned in the eastern and western elevations facing out over open arable farmland and Newhall Lane. In support of this system a noise assessment in line with British Standard 4142:1997 'Method for rating industrial noise affecting mixed residential and industrial areas' was commissioned which was undertaken in November 2008 and March 2009 respectively. The aim of the report was to provide a comparison of noise from the proposed fixed plant and machinery within the proposed grain drying building with existing background noise levels to assess a likelihood of potential noise complaints.

In summary the report identifies that noise level measurements taken in proximity to the nearest residential properties are of a level rating identified by British Standard 4142:1997 as being less than marginal significance during daytime and of marginal

significance during night time periods. The report further advises that the levels stated are 'worse case' conditions and when the wind is in the opposite direction background noise levels are higher making the rating higher at a level where day or night time period complaints would be unlikely.

In conclusion, the report identifies that the use of a centrifugal fan system would not result in excessive noise impact upon the occupiers of nearby dwellings. The report further recommends a number of mitigation measures which include: -

- Post installation monitoring;*
- Attenuators or acoustic louvres to be fitted should acoustic criterion not be reached;*
- Maintenance strategy; and*
- Routine testing of machinery during daytime period.*

A decommissioning statement identifies that the existing grain dryer located within the brick built single storey building at the rear of the existing grain store and backing onto Newhall Lane is to be decommissioned within 10 working days of the new dryer being commissioned.

A further statement outlining the possible hours of operation states that in answer to question 21 of the application form the staff are contracted to work Monday – Friday between the hours of 07:30 to 16:30. Grain collections by HGV take place on Monday – Friday between 07:00 and 18:00 with potatoes collected all week but generally restricted to similar hours of operation as to the grain collections.

During harvesting it is stated that this has to be undertaken as the weather would allow which often is into the early hours when combining. Additionally during spring extended hours are often worked to plant crops and apply nutrients. The focus of these activities is predominantly field based and not farmyard based.

Further clarification is given as to the proposed method of drying the grain and states: -

To preserve quality grain must be rapidly dried to 15% moisture content and cooled to below 10C. To achieve this, the air temperature must be 3-4 C below the grain temp and less than 75% relative humidity. Automatic systems will activate the drying fans when these conditions occur therefore optimising grain drying and cooling. The proposed new drier will be capable of removing 0.5% moisture from the grain every 24hours under favourable conditions and cool the grain will take 4-8 days. Grain is usually harvested at less than 18% moisture content. We were able to achieve this in the harvest of 2008 which had the highest rainfall ever recorded.

To summarise we need to dry and condition the grain using low daytime humidity and low night time temperatures. Once this has been achieved the fans only need to be run occasionally to condition the stored grain.”

In addition to the proposed new building it is proposed to undertake minor alterations which would include an extension to the existing farmyard area within the site's

curtilage to enable additional agricultural machinery and HGV turning facilities. This would further involve the removal of the potato boxes currently stored upon the site.

The application further proposes the construction of an 'L-shaped' landscaped bund of approximately 6.5 metres in width ranging to an overall height of 1.7 metres which would be made from the stripping of the adjacent field and positioned along the southern and eastern elevations of the proposed building. This is proposed to be landscaped with a native mix of 30% Hawthorn, 15% Field Maple, 10% Blackthorn, Guelder Rose, Holly, Hazel and Rowan mix with a further 5% Gean. The remainder of the bund would be planted with a wildflower and grass seed mix.

Revised access arrangements now submitted involve retaining the existing access into the farmyard by utilising the existing shared rights of way with existing residents. A tracking exercise has been undertaken to demonstrate that vehicles entering and exiting the courtyard area can be undertaken without encroaching onto third party land. In regards to approaching the site, once again a similar exercise has been undertaken to demonstrate that vehicles can achieve access to the site from both the northerly or southerly direction.

In support of the revised access arrangements a Traffic Summary has been submitted which sets out the traffic movement associated with the proposed development. In summary this states: -

- The proposed building will increase the net storage of grain by 750 tons (from 1250 to 2000 tons) with potato storage remaining at 1300 tons;*
- HGVs used are 42 ton with a typical payload of 29 tons these are used both for existing and proposed operations;*
- Current HGV movements associated with the existing grain operation equate to 85 per year;*
- Existing potato operation involves around 50 HGV movements although these are smaller 1-2 ton vehicles, visiting the site 2-3 a week during the period October – March which would remain unchanged by the present application;*
- Current vehicle movements is approx 2-3 per day when grain/potatoes are moved which equates to 29-42 HGV movement days in a year;*
- The extra number of HGVs to move the additional 750 tons of grain will be 26, bringing a total of 111 HGV movements per year.*
- The above increase will mean an additional 9-13 days of movements per year, taking the total to between 38-56 movement days in a year.*

The revised access arrangements would involve the widening of the existing gated access into the field across Newhall Lane, relocate and rebuild a section of wall in this location, and to remove some of the Poplar and Sycamore trees. In support of this a Tree Survey has been submitted which in summary states: -

- In consultation with the Council's Arboriculturalist the trees identified as necessary for removal are to be felled and new species are planted and maintained;*

Further documents submitted in support of the planning application include

Planning Statement:

The Planning Statement identifies that there is identified agricultural need for the development and demonstrates that the proposals are in accordance with National policies and the Development Plan comprising Regional and Local Plan Policies, and on this basis recommends that the granting of planning permission to be appropriate.

Design and Access Statement:

The Design and Access Statement sets out the opportunities for this development judged against the requirements to meet business storage requirements for commodity products and enable all current food hygiene storage legislation to be met. The document concludes the proposals make the best possible use of the location in the most sustainable way possible.

Additional information submitted sets out the justification for not pursuing the revised access arrangements as identified by Members in deferring the application in November 2008, this states: -

“The tracking drawings show the benefits of adding the flare to widen the road. This will allow HGVs to turn in and out of the entrance with more clearance between the vehicles and adjacent buildings. The road being widened at this point will also benefit other road users by creating a better passing place before the road narrows.”

It further goes on to state:-

“this is the better option than creating a new entrance further south of the existing one. The reason for this are that creating a new access would involve taking HGVs further down Newhall Lane where the road is at its narrowest point and also 1.7metres below the level of the fields on either side. This would make line of sight difficult and other road users meeting HGVs would not be able to pass them. The creation of a new access would also involve major earth works to either side of Newhall Lane and the creation of a hard surfaced road across the field to the farmyard. This would double the area of Green Belt land being taken up by the proposed new grain store and have a much greater visual impact.”

Development Plan Allocation and Policy

Under the Development Plan, the site is allocated as Green Belt. As such, the following policies apply: -

The Yorkshire & Humber Plan - Regional Spatial Strategy (RSS):

Policy SY1 ‘South Yorkshire sub area policy’, states “Plans, strategies, investment decisions and programmes for the South Yorkshire sub area should maintain the general extent of the South Yorkshire Green Belt.”

Policy YH9 ‘Green Belts’ advises that” Green Belts have a valuable role in supporting urban renaissance, transformation and concentration, as well as conserving countryside.”

Rotherham Unitary Development Plan (UDP):

Policy ENV1 'Green Belts', states: - "A Green Belt whose boundaries are defined on the Proposals Map will be applied within Rotherham Borough. In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- (i) agriculture and forestry (unless permitted development rights have been withdrawn),*
- (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it,*
- (iii) limited extension, alteration or replacement of existing dwellings, and*
- (iv) limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing)."*

Policy ENV3 'Borough Landscape', states: - "The Council recognises the vital importance of maintaining and enhancing the landscape of the Borough, pursuing and supporting this objective through positive measures or initiatives and, when considering development or other proposals, taking full account of their effect on and contribution to the landscape, including water resources and environments."

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

Policy ENV3.2 'Minimising the Impact of Development', states: - "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impact on the environment, including water resources, and to conserve and improve its quality. It will permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so."

Policy ENV3.3 'Tree Preservation Orders' states:- "The Council will protect individual and groups of trees by the declaration of Tree Preservation Orders where it is important in the interest of visual amenity or there is reason to believe that trees are under specific threat by development or the detrimental use of land."

Policy ENV3.4 'Trees, Woodlands and Hedgerows', states: - "The Council will seek to promote and enhance tree, woodland and hedgerow coverage throughout the Borough."

Policy ENV3.7 'Control of Pollution', states: -"The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport."

Planning permission will not be granted for new development which:

- (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided by incorporating preventative or mitigating measures at the time the development takes place, or*
- (ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.*

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

Other Material Considerations:

Government Guidance contained within paragraph 3.4 of Planning Policy Guidance Note 2: 'Green Belts' advises that: -

"The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes:

- agriculture and forestry (unless permitted development rights have been withdrawn);*
- essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it;*
- limited extension, alteration or replacement of existing dwellings;*
- limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG3 ; or*
- limited infilling or redevelopment of major existing developed sites identified in adopted local plans."*

Planning Policy Statement 7: 'Sustainable Development in Rural Areas' at paragraph 16 further goes on to advise that: -

“When determining planning applications for development in the countryside, local planning authorities should (amongst other criterion):

- (i) support development that delivers diverse and sustainable farming enterprises;*
- (ii) support other countryside-based enterprises and activities which contribute to rural economies, and/or promote recreation in and the enjoyment of the countryside.”*

Paragraph 27 of PPS7 further goes on to state that: - “The Government recognises the important and varied roles of agriculture, including the maintenance and management of the countryside and most of our valued landscapes. Planning policies should recognise these roles and support development proposals that will enable farming and farmers to:

- (i) become more competitive, sustainable and environmentally friendly;*
- (ii) adapt to new and changing markets;*
- (iii) comply with changing legislation and associated guidance;*
- (iv) diversify into new agricultural opportunities (e.g. renewable energy crops); or*
- (v) broaden their operations to ‘add value’ to their primary produce.”*

Paragraph 31 further makes reference to farm diversification matters and states: - “A supportive approach to farm diversification should not result in excessive expansion and encroachment of building development into the countryside. Planning authorities should:

- (i) encourage the re-use or replacement of existing buildings where feasible, having regard to paragraphs 17-21; and*
- (ii) have regard to the amenity of any nearby residents or other rural businesses that may be adversely affected by new types of on-farm development.*

Planning Policy Guidance Note 24: ‘Planning and Noise’ at paragraph 10 states: - “The planning system should not place unjustifiable obstacles in the way of development. Nevertheless, local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. They should also bear in mind that a subsequent intensification or change of use may result in greater intrusion and they may wish to consider the use of appropriate conditions.”

Paragraph 11 goes on to state: -“Noise characteristics and levels can vary substantially according to their source and the type of activity involved. In the case of industrial development for example, the character of the noise should be taken into account as well as its level. Sudden impulses, irregular noise or noise which contains a distinguishable continuous tone will require special consideration.”

Paragraph 13 ‘Measures available to mitigate the impact of noise’ advises that:- “A number of measures can be introduced to control the source of, or limit exposure to, noise. Such measures should be proportionate and reasonable and may include one or more of the following:

- (i) **engineering:** reduction of noise at point of generation (e.g. by using quiet machines and/or quiet methods of working); containment of noise generated*

(e.g. by insulating buildings which house machinery and/or providing purpose-built barriers around the site); and protection of surrounding noise-sensitive buildings (e.g. by improving sound insulation in these buildings and/or screening them by purpose built barriers);

- (ii) **lay-out:** adequate distance between source and noise-sensitive building or area; screening by natural barriers, other buildings, or non-critical rooms in a building;
- (iii) **administrative:** limiting operating time of source; restricting activities allowed on the site; specifying an acceptable noise limit.

Early consultation with the applicant about the possible use of such measures is desirable and may enable them to be incorporated into the design of the proposal before it is formally submitted for determination. Alternatively it may be appropriate for a local planning authority to ensure that such measures are introduced by imposing conditions.”

Paragraph 19 of annex 3 to PPG24 states: -“The likelihood of complaints about noise from industrial development can be assessed, where the Standard is appropriate, using guidance in BS 4142. Tonal or impulsive characteristics of the noise are likely to increase the scope for complaints and this is taken into account by the "rating level" defined in BS 4142. This "rating level" should be used when stipulating the level of noise that can be permitted. The likelihood of complaints is indicated by the difference between the noise from the new development (expressed in terms of the rating level) and the existing background noise. The Standard states that: "A difference of around 10 dB or higher indicates that complaints are likely. A difference of around 5 dB is of marginal significance." Since background noise levels vary throughout a 24 hour period it will usually be necessary to assess the acceptability of noise levels for separate periods (eg day and night) chosen to suit the hours of operation of the proposed development. Similar considerations apply to developments that will emit significant noise at the weekend as well as during the week.”

Publicity

The original application submission was advertised by way of both site notice and individual neighbour notification letters to occupiers of properties in the Newhall Grange complex the original period for comments expiring on 15 August 2008.

Four individual letters of representation were originally received from the occupiers of Oak Barn, Hollyhock, Brandy Snap and Lily Hall, with a further letter being received from a resident of Brookhouse. In summary the objections raised the following matters: -

- The applicant did not involve residents or seek views as to the acceptability of such a proposal prior to the submission of the application;
- The residents jointly own the roadway from Newhall Lane which leads to the farm business;

- *The applicant only has a right of access across the roadway to access the business premises;*
- *The right of access does not extend to parking, manoeuvring or overspill parking;*
- *Size of existing yard is inadequate for current business practices;*
- *If permission is granted business will multiply thus inadequate space will exist for turning and loading HGVs without manoeuvring onto the roadway;*
- *The existing road network is incapable of taking additional HGVs*
- *Newhall Lane has no footpaths where users of the road i.e. horse riders, cyclists, walkers and runners have no refuge from such vehicles;*
- *Newhall Lane services communities of Brookhouse, Laughton, Slade Hooton, Hooton Levitt and Carr on which commuter traffic has increased;*
- *Private cars have to use field entrances and gate ways in order to enable traffic to pass;*
- *Congestion and blockages to the road system by HGVs will seriously impede emergency vehicle progress;*
- *Road surface is totally unsuitable for any increase in HGV traffic;*
- *Mud on the road and broken verges are a hazard;*
- *Poor sight lines exist onto Newhall Lane from the farm access owing to overgrown hedgerows;*
- *The nearby Newhall Lane/Cumwell Lane junction is a notorious black spot , the greater use of the junction by HGVs will multiply risk further;*
- *Proposed grain store due to its size and bulk is not in keeping in either size or appearance with other buildings in the vicinity;*
- *Proposal would have a detrimental effect on the landscape;*
- *Proposal would result in pollution in terms of dust, noise and chemicals;*
- *Increase in pest and rodent population;*
- *Explosion / fire risk owing to dry dust forming in the drying process;*
- *Existing wooden potato crates are a fire risk and to house these in a building is ludicrous;*
- *Additional traffic would likely rupture the existing septic tank, resulting in raw sewage pollution;*
- *Additional traffic generation will lead to increased noise, dirt, dust, fumes, mud and oil on the road surfaces;*
- *Already instances of HGV drivers sleeping overnight in vehicles, this would increase;*
- *Operating hours of the yard and constant noise has a detrimental effect on quality of life;*
- *Proposal would affect the setting of two listed buildings: Newhall Grange & Newhall Grange Farm Barns;*
- *Proposal appears disproportionately large for the size of the farm at Newhall;*
- *It would appear that a large volume of grain will be brought /removed onto the site from other land;*
- *Height of the bund and planting will in no way be the same size as the proposed building;*
- *A native planting scheme should be encouraged;*
- *Concerns over structural stability of barn conversions due to increased traffic.*
- *Concerns over the safety of children and the potential conflict with HGVs*

Laughton-en-le-Morthen Parish Council also made the following comment to the original submission:-

- Both the owners of Newhall Grange (and the occupiers of the converted barns) knew what they were buying into and must have recognised any inherent future agricultural planning problems;*
- Newhall Lane is officially and patently unsuitable for heavy vehicles;*
- The shared access will become more heavily used with occupiers having to tolerate extra use and future maintenance costs;*
- Extra storage capacity is recognised but the drawbacks of a drying facility have already been recognised;*
- Whilst advantageous to have a building at the applicant's HQ, it should have its own separate access away from residents and nearer the farmhouse.*

The additional information received has further been re-advertised which has generated a further six letters raising the following issues: -

- Wish to repeat previous objections in respect of the overall increase of heavy goods vehicles and in particular unsuitable highway network, proximity of vehicles to living room windows, and pressures already upon the shared nature of the access with residential and commercial vehicles;*
- Construction of a 'lay-by' to enable extra vehicles to manoeuvre, park, wait, queue etc directly outside residential properties is unacceptable;*
- An alternative location for the facility and access, should be pursued so as not to cause any additional nuisance to residents;*
- There are no calculations to show how the additional 26 vehicle movements has been arrived at;*
- Past experience has shown inconvenience within a few weeks of the year relating to traffic congestion, unauthorised parking and general mayhem being experienced;*
- Allegations as to access/parking ownership and trespass are still disputed;*
- By utilising parking space in front of domestic garages, HGVs and other farm vehicles would not be able to manoeuvre when within the yard without causing damage;*
- At the time of approving the barn conversion works the farm was used for secondary storage, generating little tractor and trailer traffic and not for large commercial vehicles;*
- The lay-by would be within 15ft (4.5 metres) of the main bedroom and will be ignored by drivers and therefore has little/no purpose;*
- Lay-by will prove an encouragement for HGVs to be parked overnight awaiting the yard opening;*
- Lay-by will result in a meeting place for young drivers to congregate thus resulting in nuisance to residents through car radio's, doors slamming etc;*
- Confusion and road safety concerns, particularly when drivers are confronted with HGVs being broadside to them;*
- Lay-by construction would result in damage to the environment;*
- The Tree Protection Order is some 50 years old and 13 trees within this Order would be lost as a result of the lay-by;*

- *The trees are an enhancement to the environment and their removal would be “little short of hooliganism”;*
- *The Planning Department has gone over and beyond what is reasonable to facilitate this application to the point of wasting public money;*
- *The tracking exercise indicates lorries to be within metres of front doors within the open courtyard area. With small children present this raises concerns in respect of safety;*
- *The road situation has not changed since the approval of the residential conversion works and more HGVs using Newhall Lane would further add to danger facing walkers, cyclists, horse riders and motorists;*
- *The credibility of the submitted noise report still remains in question;*
- *The Council has previously stipulated compliance with certain standards when taking readings, residents have not been made aware that these standards have been complied with;*
- *The reference to other readings taken at premises in Letwell are flawed and without substance;*
- *Discussions with residents in Letwell who live approx 150 metres away across open fields comment on the noise/disturbance. Newhall residents live as close as 70 metres to the proposals;*
- *The results have been ‘paid’ for and are not an objective evidence based report;*
- *No improvements are planned for the improvement of the road surface condition to Newhall Lane which is disgraceful and too narrow for wide loads;*
- *A similar farm building in Laughton suffers from dryer noise ‘droning’. as the dryer will be constantly in use what testing and restrictions will be enforced;*
- *Should more than one HGV be present what will happen to waiting vehicles;*
- *Cannot find any environmental benefit to this proposal – annual cost for a building of this size would be in the region of £30,000;*
- *Environmental benefit of building the grain store of recyclable materials is very marginal;*
- *Low frequency ‘hum’ noise will be of detriment to residents of nearby dwellings;*
- *Workers in and around grain dryers are offered ear protection and health checks – what about neighbours;*
- *Traffic movements described are over and above the number of HGVs when application was approved in 2001 to convert barns;*
- *Concentration of the bulk of HGVs into a 38-56 day per year period with no parking facility, no lawful area to go and backing out of the premises could create chaos and danger to road users;*
- *Little or no justification exists for the removal of the trees and consequent habitat destruction;*
- *Trees are an attractive feature and add to the environment their removal is considered to be an act of hooliganism;*
- *An order from the Secretary of State will be required before lawful removal can take place;*
- *Replacement planting will take upwards of 20 years to reach maturity before they will enhance the area again;*

- Applicant misunderstands legal position in respect of access arrangements and residents will shortly be taking steps to further prevent trespass and abuse of this area;
- Government guidance in PPS7 in support of the application in many ways seems just as supportive of residents case for rejection;
- No benefits from development 2 farm labourers are employed with no suggestion that this will increase;
- Other quoted 'similar drying facilities' – where are they?
- Acoustic report fails to demonstrate compliance with British Standard;
- Grain drying operation as set out in report emphasises that operation can be sometimes 24/7, continuous operation for over a week would not be unusual;
- Tracking drawings inaccurately represented compared to Land Registry plans;
- Plans show vehicles will drive over septic tank in the yard;
- Plans show vehicles tracking through water/diesel tanks – are these to be re-sited;
- Drawing showing turning within farm yard encroaches off concrete onto field area;
- Turning drawings indicate U-turn would demolish potato crates unless alternative storage is found;
- Residents experience of operating hours during harvesting time is:-
7 days a week, working 14-16 hours per day for 2-3 months;
- Experience of operating hours outside harvesting time is:-
6 days a week, working 10 hours per day, 50% of Sundays worked but only for a few hours;
- Bulk carriers collect from the yard 6 days a week starting 06:30 and leaving as late as 20:40;
- Overnight sleeping in the yard has taken place in the last month;
- Residents strongly object to applicants lack of respect in suggesting warning signs should be erected;
- Are in question is residential – residents expect normal traffic not HGVs and super sized tractors in excess of the numbers when occupation first occurred;
- Suggestion of undertaking a risk assessment and giving residents a copy is ludicrous;
- How is such an assessment sufficient and without monitoring is not worth paper it is written upon;
- Health & Safety at Work Act requires a duty to protect public, this would entail a full traffic plan and qualified vehicle banksman to ensure safe access and egress from the farmyard; and
- A precedent for rejection of storage buildings has already been set by refusal of barn some 200 metres from the proposal at Newhall Grange.

Laughton-en-le-Morthen Parish Council have further made the following comment to the amended submission:-

- Would reiterate previous comments in terms of concerns raised from increased noise of the drying facility and noise and pollution from HGVs entering and leaving;
- Signal an end to any form of recreation activities for children living or visiting;

- *The road widening will entail the removal of 13 mature trees believed to be covered by a Tree Preservation Order made 50 years ago;*
- *Current access road from Cumwell Lane is very narrow and in a poor state of repair and unsuitable for HGVs. Coupled with the suggested turning point this poses yet more danger for road users;*
- *Vehicles approaching the farm entrance could be doing a considerable speed (60mph speed limit) in the hope they reach the top of the hill before other road users descend;*
- *No passing places on the hill other than ditches exist which have been historically formed over time where vehicles have been forced to pass;*
- *Modern Sat Nav systems often direct traffic through Carr to wards Slade Hooton and Laughton-en-le-Morthen, with reliance on such systems more vehicles will continue to use this route meaning more traffic on a poorly maintained, narrow and dangerous route;*
- *If permission were to be granted for the grain store it could pave the way for more unrelated HGVs to start using this as an access through to Maltby, Dinnington or Laughton-en-le-Morthen.*

Copies of all the letters of representation will be available in the Members' Room before the Meeting. There have been four rights to speak in relation to the proposals.

Consultations

The South Yorkshire Fire Safety Officer comments that access for fire appliances should be in accordance with Building Regulations Approved Document volume 2 part B5 section 16.

Streetpride Service (Landscape Section) comments that the revised landscaping to the proposed bund is acceptable and recommends the imposition of a suitable condition requiring landscape maintenance to this area.

Streetpride Service (Trees and Woodlands) comments that ten trees would need to be removed in order to widen the road to provide the new access, eight of which have limited future prospects due to poor natural development being in close proximity to each other and / or existing defects with associated decay that limits their future prospects irrespective of any development. The remaining 2 trees that are in reasonable condition do not provide such important amenity to warrant refusal of the proposals on tree grounds. For these reasons it is difficult to object to their removal.

It is further stated that: - "The Council has a record of the above Order part of which is within the application site. However, it appears that only a site plan is available for the Order that shows 4 areas of trees adjacent to Newhall Lane and Back Lane, and there is no first schedule to confirm details of species or numbers of trees involved. Therefore, unless any evidence is available to confirm the Tree Preservation Order details it is difficult to be certain which if any of the trees concerned are subject to the Order, either as the original protected trees or possibly as replacement planting. Nevertheless, at this stage, from their age and size it is very unlikely that these are the original trees."

The Trees and Woodlands Section further note that removal of these trees will no doubt result in a partial reduction of amenity that will be permanent unless more space is provided behind the new wall for replacement planting. Therefore, suitable replacement trees should be planted in a nearby location to help restore and provide future amenity. This can be achieved via the imposition of a suitable landscaping condition attached to any permission granted.

The Transportation Unit have no objections to the granting of planning permission in a highway context subject to the imposition of suitable conditions requiring surfacing, construction and drainage and the improvements being undertaken before the development is first brought into use. It is acknowledged that the revised confirmation of the anticipated vehicular trips and additional information states there is no intention to allow HGVs to access the site from Carr village. The tracking manoeuvres which have been provided further show that it would be possible to undertake such a manoeuvre should this situation arise, whilst the additional vehicular tracking drawings further indicate as to how vehicles can manoeuvre within the site without the need to track over the residential parking bays fronting the car port building.

Neighbourhood Service (Environmental Health) comments that the submitted noise report indicates a significant reduction in background noise levels between the reports submitted in November 2008 and March 2009 with the assessment looking at the worst case scenario. The report outlines that when coupled with the background readings that day time noise associated with the proposal would be to an acceptable level but night time levels would be slightly above the 'marginal significance' level of 5db. However, in view of this the applicant has failed to demonstrate what adequate mitigation measures would be put in place to reduce this to an acceptable level.

Appraisal

The main issues for consideration in the determination of this application are whether the development is appropriate in this Green Belt location; whether the scale and design is appropriate; what implications would arise from the development in terms of highway safety; what the effect of the proposal would have upon the protected trees and what the likely impact the development would have upon the amenities of adjacent residential properties.

Development in the Green Belt:

Both national planning policy contained within PPG2 'Green Belts' and PPS7 'Sustainable Development in Rural Areas' and Unitary Development Plan Policy ENV1 Green Belts, allow in principle development relating to agricultural practices. Both the original information which accompanied the application along with the revised supporting documentation outline and explain that there is a requirement for a replacement grain store, to meet a shortfall of storage capacity and to provide more modernised drying facilities as required by DEFRA. The proposal will increase the storage capacity for the 663 hectare farm from approximately 4650 tons to 6174 tons (a difference of some 1524 tons). The proposed store would hold approximately 2000 tons, which allowing for a further 8% yield increase in output would see the proposed store fully utilised within a decade. Based on the submitted information, it is

considered that there is a genuine need for the development, and as such, no objections are raised to the development in principle.

Scale and design:

It is accepted that the proposed building would comprise of a very large structure of modern utilitarian appearance, however its size and scale are largely dictated by the storage use proposed, and the nature of the modern farming practices and the desire of the applicant to consolidate the farming operation to this centralised site. The building, owing to its orientation and position on the edge of the existing farmyard area and having aspect to open countryside to the south, east and west coupled with its elevated position above the adjacent fields, would create a dominant feature within the landscape. In relation to the comments received from neighbours in respect of its overall size it is acknowledged that the overall width of the new building is virtually double the width of the existing grain store (42 metres compared to 22 metres) and approximately half the length of the current building (44 metres compared to 24 metres) with an overall height of approximately 2.7 metres higher than at present. However on balance notwithstanding that this would be the largest building within the farm complex, it is of a typical design and constructed of appropriate materials which are of a sort commonly found within the countryside and would be located directly adjacent to the existing buildings. It is not therefore considered that it would be out of place or be of significant detriment to the surrounding area to warrant a reason for refusal. As such it is considered that the proposal complies with UDP Policy ENV3.1 'Development and the Environment'.

Furthermore, excavated soil from the adjacent field would be used to form a landscaped bund to the south and east elevations which are considered to further reduce the overall visual impact of the proposed building. Details of the proposed bund and landscaping could be made a condition attached to any planning permission granted, which would ensure compliance with UDP Policies ENV3 'Borough Landscape'; ENV3.2 'Minimising the Impact of Development'; and ENV3.4 'Trees, Woodlands and Hedgerows'.

Additionally the proposal indicates that the erection of the grain store would facilitate the freeing up of the existing buildings to enable the housing of potato boxes which are currently stacked within the open yard area, the remaining yard area would then be enlarged to create a manoeuvring area. The net effect of these alterations would not materially alter the rural nature of the area, as it would be closely associated with the creation of the new building and with the other development on the farm, nor would it unduly intrude on the surrounding countryside. Suitable conditions could be attached to any planning permission to ensure controls over the height and location of any future external storage and details relating to the formation of the hardstanding. As such the proposal is therefore considered to comply with UDP Policies ENV3 'Borough Landscape' and ENV3.1 'Development and the Environment'.

Highway Safety:

The majority of objections relating to the proposed scheme focus upon issues arising from the current access; the potential increase in traffic generated by such a

proposal; the inadequacies of the surrounding highway network and nearby junctions; and issues arising from the current access.

The site is accessed from Newhall Lane (C319) which is a typical country lane and by virtue of its restricted width, poor alignment and lack of separate pedestrian facilities is considered far from ideal to cater for a significant increase in vehicular traffic, in particular large commercial vehicles. Notwithstanding this, the lane currently caters for such traffic including large articulated vehicles associated with the existing agricultural use of the site.

The existing vehicular access from Newhall Lane has been constructed to a substantial width (approximately 15 metres) to compensate for the narrowness of the lane thereby enabling large commercial vehicles to turn into/out of the site. Visibility at the access is however limited by Oak Barn (a converted barn to the north) and a wall/fence and further hedgerow and embankment to the south.

Following deferral of the application at the Planning Board on 20 November 2008, the applicant has been in discussions with both the Transportation Unit and planning officers which has culminated in the revised access scheme to widen the highway itself to facilitate a better turning area for vehicles entering and exiting the existing shared access. Investigations have been undertaken as to the likelihood of providing a separate access to the south of the proposed barn off Newhall Lane. However, this has been discounted initially by the applicant and subsequently by officers due to both highway safety matters – i.e. the lane being too narrow at this point and visibility would be impeded owing to the need to cut the access into the highway banking, and from a visual aspect in regard to the prominence of a raised platform and turning area that would have to be formed and the further impact this would have on the character and openness of the Green Belt by bringing development further into the open fields.

As to the proposed access as now submitted, conflicting information has been submitted by both objectors and the applicant in respect of the rights of way that form the shared access to the site. Ordinarily this would be a private issue between the parties concerned though this matter has raised implications as to how the internal turning arrangement within the site would be provided and it is considered of material consideration to the determination of this application.

The submitted tracking drawings indicate that a 42 ton vehicle could now access the shared access off Newhall Lane at a greater distance away from the corner of the building known as Oak Barn which contains a bedroom closest to the highway. The tracking exercise further demonstrates that such a vehicle could manoeuvre within the site without impeding or encroaching onto third party land, on this basis it is considered that the additional HGV movements will not have a materially adverse impact. In respect of the concerns raised as to safety of pedestrians, and particularly children playing in the internal courtyard area, the applicant has stated that signage could be erected to give advance warning and a risk assessment could further be undertaken and letters issued to all drivers, regular customers and suppliers warning of the need to be vigilant when entering, manoeuvring, and leaving Newhall Grange.

The applicant submits that the farm access, whilst shared with the residents of the adjacent Newhall Grange complex and their associated deliveries, is the only access in terms of the farming operation, and therefore is used by a mixture of residential, commercial (both HGV and smaller vehicles), farm machinery and employees. It is further suggested that copies of the above mentioned letters could further be given to residents so as to ensure visitors to their premises are equally made aware of the risks their vehicles pose on the site.

On the matter of the widened highway to the west of Newhall Lane, it is considered that the repositioning of the gate and wall and the provision of a widened highway would not be of detriment to highway safety a view in which the Transportation Unit concur.

Traffic Figures:

The supporting information which accompanies the application advises that, the current farming business is made up of two distinct harvests, potatoes and grain creating 1300 tons of potatoes and 1250 tons of grain, although it is acknowledged that other crops i.e. oilseed rape, beans and peas are further cultivated. In respect of current traffic generation based on the fact that one trip equals two vehicle movements i.e. vehicle accesses and vehicle leaves, to transport 1250 tons of grain would therefore equal forty three, 29 ton loads which results in a total of 86 movements. It is further stated that around 50 LGV (1 - 4 ton) would be required to collect the potato harvest.

Based on the above vehicle movement calculations the proposed increase in 750 tons of grain equates to an additional 26, 29 ton loads which will result in a total of 52 additional movements. Notwithstanding the applicant's initial anticipated 111 vehicle movements, by applying the total vehicle numbers from the above calculations this would equate to a total of 138 additional movements per year. In terms of the potato operations it is stated that existing levels of HGV traffic would remain the same albeit evened out over a longer time period.

In respect of tractor and trailer movements the supporting information states there would be marked reduction in the number of tractor and trailer movements as there would no longer be a need to temporarily store potatoes in a separate off site storage building.

Notwithstanding the difference between the existing and proposed traffic movements as stated by the applicant and subsequently assessed by the Transportation Unit it is not considered that the overall increase in traffic to be significant in volume on either the existing or proposed revised access arrangements, or upon the local highway network in the vicinity of the site to warrant a reason for refusal and subject to the imposition of suitable conditions in respect of surfacing treatments and drainage of the farm yard extension to facilitate the proposed building.

Impact on protected trees:

The bank of trees located to the west of Newhall Lane covered under Tree Preservation Order (TPO) 1952 no. 1 have been assessed on site by the Trees and

Woodland Section who upon further research confirms that no first schedule exists to confirm the exact species or number of trees involved. Without such schedule or further evidence to the contrary it is concluded it would be difficult to be certain which (if any) of the trees concerned are subject to the original Order either as the original protected trees or possibly as replacement planting. Nevertheless from the site inspection and an assessment of the trees size and age it is unlikely that eight out of the proposed ten trees proposed for removal are original from the time of the Order. A check of the Council's records reveals that there has been one previous application from 1991 to fell four dead specimens from this group of trees, however the level of information contained in this application unfortunately does not impart any further information as to the species, number or status of the trees. Therefore on the basis of the lack of evidence available to ascertain the current position the Trees and Woodland Section considers that the trees to be removed to form the improved access are not worthy of retention.

On the basis of this assessment whilst it is accepted that currently these trees help to contribute to overall amenity that may be valued by nearby residents that overlook them their retention is not desirable. Whilst the applicant has not undertaken a full investigation to ascertain whether suitable replacement planting or similar can be achieved in lieu of the tree removal, nevertheless owing to land ownership matters there is an acknowledged willingness to replant at a quantity and quality of trees to which an appropriately worded landscape condition could be applied to any planning permission issued, these could then form the subject of a new TPO subject to further confirmation at the appropriate time.

Impact upon residents:

The comments raised by the residents in terms of noise and disturbance generated by farm traffic have been noted, and owing to the limited increase of the traffic movements associated with the proposal, it is not considered that the amenities of the residents would be adversely affected, indeed the comments received by Environmental Health officers in respect of no idling of HGV engines and no overnight parking could be made a condition to be attached to any subsequent planning permission granted for development at this site.

In terms of the issue of noise generated by the proposed driers in the grain store, this was an influencing factor for the deferral of the application in November 2008. In terms of nearest residents to the proposed development, these are the two converted properties identified as Oak Barn and the Nook and are located some 68 metres to the north of the new building and separated by the existing agricultural buildings which exist on the site. No changes have been made to the external elevations of the building since the application was initially submitted and therefore all louvres and vents associated with the proposed drying facility would be positioned in the end elevations facing across the open agricultural fields.

The resulting noise survey submitted in November 2008 raised inadequacies to its overall accuracy in respect of the background noise readings undertaken and how these readings compared with the advice contained in British Standard 4142:1997 'Method for rating industrial noise affecting mixed residential and industrial areas'.

Following a further request from Environmental Health a noise assessment was undertaken again in March 2009.

In the main this revised assessment undertaken and the results of the noise data collated would suggest that the proposed centrifugal fan and associated air drying/handling equipment whilst being audible from these nearest properties would not have an adverse effect upon the amenities of residents by way of noise and disturbance so as to create a continued disruption to general day to day living arrangements.

Upon closer scrutiny, what the submitted report fails to fully acknowledge is what mitigation measures (including post installation monitoring, maintenance and future testing of equipment considerations) could be undertaken in order to ensure the likely impact of the proposal on the residential amenities of the occupiers of adjacent properties is properly maintained. Without this level of detailing and in particular the ongoing concerns raised by residents, it is this lack of detail and uncertainty which fails to accord with Policy ENV3.7 'Control of Pollution' of the Unitary Development Plan and national planning guidance in PPS7 'Sustainable Development in Rural Areas' and PPG24: 'Planning and Noise'.

Other Material Considerations:

Other comments raised by objectors include concerns over the impact of the development upon the character and setting of the adjacent listed buildings (namely the Newhall converted units). In respect of this issue, it is considered that as these properties are located approximately some 90 -110 metres distance from the proposal and are set either behind existing buildings or mature landscaping, it is not considered that their character or setting would be adversely affected to warrant a reason for refusal on this issue.

On the others matters raised in respect of potential chemical pollution; a potential increase in pest and rodent population; fire risk associated with the existing wooden potato crates and dust arising from the drying processes, these are all matters which are considered to be covered under separate legislation and could be covered by the imposition of a suitable informative which could be attached to any planning permission granted.

On the issue of precedent being set with other developments in the vicinity, it is assumed the residents are referring to the proposed hay barn on land to the rear of 1 Newhall Cottages (ref RB2008/0573) which was refused under delegated procedures on 03 June 2008 due to its inappropriateness within the Green Belt; and its size, siting and materials of construction constituting an unacceptable visual intrusion in the landscape; and being of detriment to the openness of the Green Belt.. Members will recall the appeal decision to dismiss the proposal dated 06 April 2009 was reported to Board on 30 April 2009 where it was stated:-

"The proposal in the Inspectors view would consolidate the existing built form at the site and have the effect of encroaching into the Green Belt and reducing its openness in a small, but nonetheless significant way. The building would also have an unusually shallow roof pitch which would appear out of character with its context and

harmful to the visual amenities of the Green Belt. The harm to the openness and visual amenities of the Green Belt would add to the harm by reason of inappropriateness. The proposal would thus conflict with the advice at PPG 2, together with Policies ENV1 and ENV3.1 of the UDP. No other considerations which could amount to very special circumstances have been advanced which would outweigh this harm and, therefore, the appeal was dismissed."

Overall it is not considered that a direct comparison can be made between the proposed grain store and the hay barn referred to above, both applications have been assessed on their individual merits and in line with the provisions of Section 38 of the Planning and Compulsory Purchase Act of 2004 which states: -

"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."

Conclusions

It is considered that the application under consideration has been judged in light of the Development Plan and all other material considerations. It is further considered that the principle and agricultural need for the development is acknowledged and acceptable and that the size, scale, form and design of the proposed grain store is one which is compatible with the Green Belt locality. The development is not considered to have a detrimental effect upon highway safety matters or the wider surrounding highway network, nor is it considered that the widened access or the loss of the trees would be of detriment to the visual locality. However in terms of the detrimental impact upon the amenity of neighbouring properties by way of the noise impact of the driers within the proposed grain store it is considered that insufficient information has been submitted to demonstrate that the impact would not be significant, or could be adequately controlled by way of suitable conditions. Further work is required in order to satisfactorily demonstrate that there will not be any post installation demonstrable harm to residential amenity. On this basis, it is therefore recommended that planning permission be refused for the reason set out at the commencement of this report.

RB2009/0342

Change of use to indoor junior football and bowling facility at The Store Room, Fitzwilliam Road, Eastwood for Mr. S. Saeed.

RECOMMENDATION: REFUSE

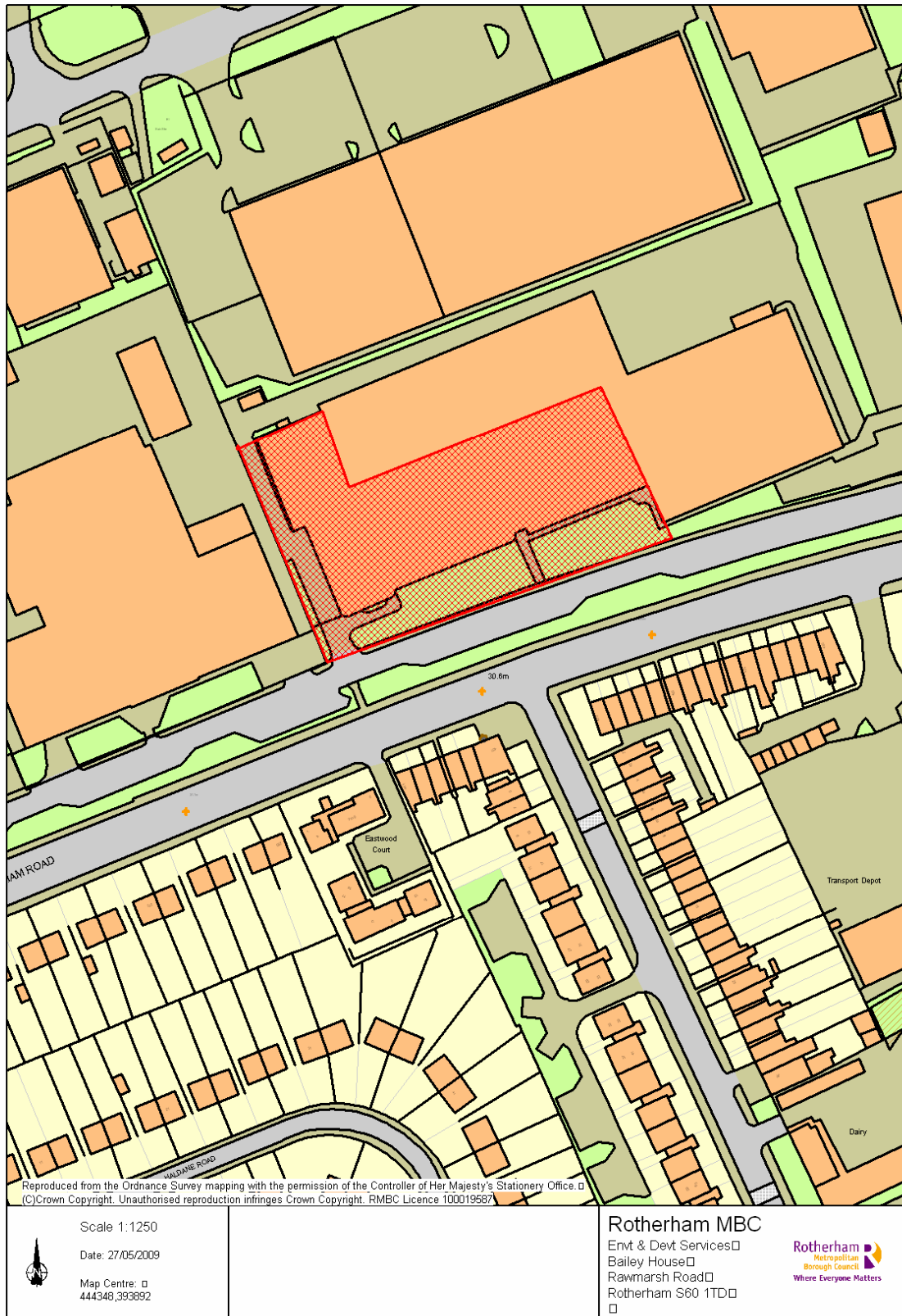
Reasons for Refusal:

01

The site is within an area allocated in the UDP for industrial/business uses. The proposed indoor junior football and bowling facility is not an industrial/business use and is not ancillary to the primary main industrial/business uses of the area, contrary to UDP Policies EC3.1 'Industrial and Business Uses' and EC3.3 'Alternative Uses Within Industrial and Business Areas'.

02

It is considered that inadequate justification has been provided in terms of need and impact on the town centre and if approved the proposal would be contrary to the requirements contained within Planning Policy Statement 6 (PPS6) resulting in development having a detrimental impact on the viability and vitality of Rotherham Town Centre.



Background

The building was previously a factory/printing works and was extended under Planning Permissions RB1989/1338, RB1990/0597, RB1999/0842 and RB2002/1066. The change of use from printing works to storage was approved under Planning Permission RB2006/1562. It became "The Store Room" (where storage space could be rented out) and signs for the building were approved under Advertisement Consents RB2007/0364 and RB2008/0382.

Site Description and Location

The site comprises part of a large storage building which fronts Fitzwilliam Road to the south which also provides the access to the site. It is part of the Eastwood Trading Estate. There is a parking area to the front of the building and an "overflow" car park to the rear of the overall building. The site is surrounded by industrial/storage buildings.

Proposals

The change of use of the unit would result in two indoor junior football pitches and two indoor bowling areas, together with a small gym, refreshment area, changing rooms and toilets. The unit has a total floorspace of approximately 2900 sq.m. There is a parking area to the front which would be retained. Although the drawings state there are 40 spaces, it is considered by the Council's Transportation Unit that it would only be capable of accommodating 25 bays. There is also a surplus parking area to the rear of the building which is within the ownership of the applicant and would be shared with those using the remainder of the storage. Two disabled parking spaces are proposed. No details of staff numbers or opening hours are given. There are no proposed external alterations to the building.

The supporting information from the applicant's agent states there are no such facilities in Rotherham and there is a demand for them. He adds that "There are no more central sites available", though no detailed information is provided in this respect. The building would require minimal alterations to provide the facilities although works would be undertaken to include facilities for disabled users. He notes that the facility would be accessible to public transport and is within walking distance from the town centre. He notes that the existing industrial estate appears to be in decline and that several units are vacant or in a state of disrepair.

Development Plan Allocation and Policy

01 UDP Policies

The site is allocated for Industrial and Business Use in the UDP

EC3.1 'Land Identified for Industrial and Business Uses' aims to restrict the uses in these areas to B1 (Office/Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) in the interests of providing land for economic and employment purposes.

EC3.3 'Other Development within Industrial and Business Areas' allows alternative uses in these areas subject to, amongst other things, the impact on the surrounding environment and adjacent uses, and the use being either ancillary to the primary use of the area or which would provide significant employment (and if it meets these criteria it must also be shown that there are no suitable alternative locations, no land-use conflicts arise and the range and quality of employment opportunities in the area has been increased).

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

CR2.6 'Indoor Recreation' states that indoor recreation facilities will be supported providing they have satisfactory access to highways and public transport, satisfactory pedestrian access, acceptable noise levels, adequate car parking, limits on hours of use, and where the proposal is compatible with other relevant UDP policies.

Other Material Considerations

Planning Policy Guidance Note 13 (PPG13) 'Transport' aims to ensure that development and uses of land do not increase traffic congestion, do not affect highway safety and convenience and are accessible to public transport.

Planning Policy Guidance Note 17 (PPG17), 'Planning for Open Space, Sport and Recreation' states, amongst other things, that more intensive recreational uses should be located where they can contribute to town centre vitality and viability.

Publicity

The proposal was advertised in the press and a site notice was erected as the proposal was deemed to not be in accordance with the UDP. Letters were also sent out to adjacent occupiers. No responses have been received.

Consultations

Council Transportation Unit: No objection as there is access to on-street parking as well as existing parking areas within the site and the site is adjacent to a Quality Bus Corridor.

Council Environmental Health Service: Envisage no significant loss by virtue of noise, air quality or land pollution impact.

Council Leisure Services: With regard to current indoor football provision in Rotherham, if the facility was dual use incorporating an indoor bowls facility it would be seen as beneficial. There is a demand for indoor space during the winter and although there are a number of astro-turf pitches across the Borough, these are all outdoors. With regard to indoor bowling provision, currently bowlers from Rotherham and Sheffield travel to Doncaster to play in the Doncaster indoor bowling league. There is a demand for a suitable indoor bowling facility in Rotherham

Appraisal

The main considerations in the determination of this application are as follows:

- The principle of the proposal in view of planning policies and guidance which aim to ensure that land is retained for business and industrial purposes and to locate leisure uses in town centres*
- Impact on traffic generation and highway safety.*

The principle of development:

The site is part of a large storage premises within the Eastwood Trading Estate which is allocated in the UDP for continued industrial and business uses. Policy EC3.1 aims to retain sites within the land allocation for B1 (Office and Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) uses in the interest of encouraging economic development and employment. The proposed indoor sports facility is not deemed to fall into any of the above use classes and therefore does not comply with the policy.

Policy EC3.3 does allow alternative uses in Industrial and Business Areas if they comply with the criteria attached to the policy. In this respect, the proposed use would have a minimal impact on the surrounding environment. However, it would not be ancillary to the main business/industrial use of the area and would not create significant employment in relation to business and industrial uses for which the trading estate is allocated for in the UDP. In addition, it requires the developer to demonstrate that there are no suitable alternative locations available for the proposed development. The applicant has not provided any information of any alternative premises which have been investigated for the proposed facilities within areas where it could be more acceptable in accordance with the UDP, such as the town centre, or areas allocated for community facilities or 'Mixed Use' areas. The proposed use would therefore also not comply with this policy.

Planning Policy Statement 6 'Planning for Town Centres' aims to protect the vitality and viability of town centres and for this reason requires leisure facilities, amongst other uses, to be located in town centres, unless it can be demonstrated that no suitable town centre site exists for the proposal. No evidence has been provided by the applicant's agent in this respect and therefore the proposal is contrary to PPS6 and in this case, would also not comply with Planning Policy Guidance Note 17 (PPG17), 'Planning for Open Space, Sport and Recreation' which aims to locate more intensive recreational uses in town centres. There is a proposal to remove the requirement for town centre needs analysis in the forthcoming Planning Policy Statement 4 (government planning guidance for commercial and industrial development) but this is currently in draft format and it is considered that this would not outweigh the determination of the proposal under the above current planning policies and guidance.

Policy CR2.6 of the UDP is supportive of indoor recreation proposals providing they comply with the attached criteria outlined in the 'Development Plan' section of this report. In this respect, it is considered that the proposal has satisfactory access to the highway network and public transport and is also well located for pedestrians.

Proposed alterations would also allow the facility to be accessible to disabled users. Parking provision is adequate and there would be no harmful levels of noise creation. The proposal would comply with the criteria related to these issues. However, it is not considered that the proposal would comply with the last criterion which states that the proposal should also be compatible with other UDP policies and the reasons for this are outlined above.

It must be considered if there are any special circumstances which are so beneficial that they could outweigh the operation of the above policies. Supporting information has been submitted from the applicant and it claims that there is a significant demand for indoor junior football pitches and indoor bowling areas, as no such facilities exist in Rotherham. The Council recognises this demand and would support the provision of such facilities in Rotherham in principle. However, the existence of other leisure uses and non-business/industrial uses elsewhere on the trading estate emphasises the need to protect the remaining amount of floorspace on the trading estate for future industrial and business uses, and other more intensive employment uses, in the interests of the local economy and employment provision.

Overall, it is considered that the proposal, as judged by the supporting application information, would not provide overriding benefits which would outweigh the importance of UDP policies EC3.1 and EC3.3 and their aim of encouraging B1, B2 and B8 uses, and that the unit should therefore be retained for these more intensive employment uses.

Impact on traffic and highway safety:

It is not considered that the proposed use would lead to significant traffic generation to the extent that it would cause highway safety and convenience problems. The site also has good access to public transport. The available parking provision to the front and rear of the site, together with available on-street parking, is sufficient to accommodate the number of staff and visitors expected to use the proposed facility and this would alleviate any possible highway problems. It is not accepted that the proposal is within walking distance from the town centre, being located approximately 1.5km away, but it is located on a Quality Bus Corridor. As such it is considered that the proposal would comply with UDP Policy T6 'Location and Layout of Development'.

Conclusion

The Council would be supportive of a new indoor junior football and bowling facility where such facilities do not exist and where there is a demand for them as this would be a significant benefit to the community. However, the site is allocated for industrial and business uses and UDP Policies EC3.1 and EC3.3 look to ensure that Industrial and Business Areas are retained for B1 (Office and Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) uses, or other significant employment uses, in the interests of the local economy and employment generation in the future. Based on the evidence submitted with the application, the need for the facility does not outweigh the operation of the policies and the importance of retaining the site for future economic/employment uses. There is also inadequate justification for locating the facility outside of the town centre and the proposal is also contrary to PPS6 and

PPG17 which aim to locate leisure uses in town centres in the interest of their vitality and viability. The application is therefore recommended for refusal.

RB2009/0381

Change of use from car rental office (Use Class B1) to aesthetics clinic (Use Class D1) at 1 Wharncliffe Street, Rotherham Town Centre for Mrs. Bradbury & Mrs. Chester.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

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

- a) Development Plan

- UDP Policies

- The site is allocated as Mixed Use Area 25 in the Unitary Development Plan.

- Policy EC3.4 'Small Businesses' states that: "The Council will expansion of small firms and the development of new enterprises including community businesses particularly by: (i) assisting the provision of small sites and managed workspace and permitting the conversion of suitable buildings; and (ii) permitting the conversion of rural buildings..."

- Policy EC5 'Mixed Use Areas' states that: "Within Mixed Use Areas shown on the proposals map, a variety of land uses will be acceptable..." The table of appropriate uses for Mixed Use Area 25 are: A1, B1 (Offices only), D1 and D2.

2. For the following reasons:

- In principle, the proposed use of this building as a Clinic (D1) falls within the table of acceptable uses within Mixed Use Area 25 and is therefore considered to be acceptable. Given the scale of the use and its location, it is not considered that the proposal would result in a materially detrimental

impact on the residential amenity of neighbouring properties. Furthermore, it is considered that the site is within a sustainable location within walking distance of the town centre and that adequate car parking facilities are provided within the confines of the site. It is therefore not considered that the proposal would have a materially detrimental impact upon highway safety.

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

Conditions Imposed:

01

[PC73*] The use hereby permitted shall only be open to customers or for deliveries between the hours of 10.00hrs to 17.00hours on Mondays, Wednesdays, Thursdays and Fridays, 10.00 to 18.30 on Tuesdays and 09.00 to 14.00 on Saturdays and at no time on Sundays.

Reasons for Conditions:

01

[PR73] In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'



Background

The following applications are relevant:

RB1980/3905 – Change of use from store to office - Granted

RB1986/1543 – Use of bungalow as a chemists shop – Granted Conditionally

RB1988/0033 – New front entrance to health and beauty centre, external staircase and alterations to living accommodation – Granted

RB2005/0348 - Use of land to rear of The Bungalow Tenter Street Thornhill for storage of car rental vehicles and use of premises as office for associated car rental business – Granted Conditionally

RB2005/1454 - Display of various illuminated signs – Granted Conditionally

Site Description & Location

The application site comprises a single storey building on Wharncliffe Street, close to its junction with Doncaster Road. The building is stone built and lies at a right angle to the properties on Doncaster Road.

The last use of the premises was as a car hire centre and there is still evidence of fascia signs for that use. There is a car park (which is included within the red line boundary of the application site) adjacent to the north of the building.

Proposal

This application proposes the change of use of the building at 1 Wharncliffe Street from a car hire centre to an aesthetics clinic (Use Class D1). A supporting letter has been received with the application which states that:

“The Pure Aesthetics Clinic is a well established clinic which offers specialist advanced aesthetics treatments. We work closely with Rotherham District General Hospital and Dr John Reid is our medical advisor...The Clinic is registered with the Health Care Commission, this is an essential requirement of the clinic due to the safety regulations in place and the Quantum Laser Machine.”

The clinic is owned by a qualified nurse and an Electrolysis specialist who will work alternate days with a receptionist. Clients will attend on an appointment only basis.

Four car parking spaces are allocated for the Clinic (to the north of the building).

Development Plan Allocation and Policy

01 UDP Policies

The site is allocated as Mixed Use Area 25 in the Unitary Development Plan.

Policy EC3.4 'Small Businesses' states that: "The Council will support the expansion of small firms and the development of new enterprises including community businesses particularly by: (i) assisting the provision of small sites and managed workspace and permitting the conversion of suitable buildings; and (ii) permitting the conversion of rural buildings..."

Policy EC5 'Mixed Use Areas' states that: "Within Mixed Use Areas shown on the proposals map, a variety of land uses will be acceptable..." The table of appropriate uses for Mixed Use Area 25 are: A1, B1 (Offices only), D1 and D2.

Publicity

The application was publicised by way of letters to neighbouring properties and a site notice was also posted on 3 April 2009.

No representations have been received.

Consultations

*Transportation Unit has no objections.
Environmental Health has no objections.*

Appraisal

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 planning application are:

- The principle of the development;*
- The impact of the proposal on highway safety;*

Principle

The site is allocated within the UDP as Mixed Use Area 25 wherein uses falling within Use Class D1 are acceptable in principle. In addition, the building is currently vacant and it is considered that the change of use will allow the building to be brought back into an active use.

Impact on Residential Amenities

The closest residential properties to the application site are those above the commercial/retail premises on Doncaster Road. It is considered that the proposed use of the building is relatively modest in terms of its operation and the proposed opening hours are reasonable. It is not considered that the proposed use as a Clinic would result in a material impact of disturbance to local residents given that the residential properties in close proximity are predominantly flats above existing commercial premises.

Impact on highway safety

The use is considered to be relatively modest in terms of its intensity, a supporting letter submitted with the planning application states that clients will be seen on an appointment basis and that staff numbers will be limited to one specialist nurse/Electrolysis specialist and one receptionist. A total of 4 car parking spaces are provided within the red line boundary of the site and it is considered that this provision is adequate considering the sustainable location of the site in close proximity to the town centre.

Conclusion

In principle, the proposed use of this building as a Clinic (D1) falls within the table of acceptable uses within Mixed Use Area 25 and is therefore considered to be acceptable. Given the scale of the use and its location, it is not considered that the proposal would result in a materially detrimental impact on the residential amenity of neighbouring properties. Furthermore, it is considered that the site is within a sustainable location within walking distance of the town centre and that adequate car parking facilities are provided within the confines of the site. It is therefore not considered that the proposal would have a materially detrimental impact upon highway safety.

RB2009/0393

Replacement spillway with pedestrian footbridge, stabilisation of dam wall, new draw-off pipe, new wildlife pond, infill existing spillway, enhancement of riprap wave protection and lowering of dam crest by 0.5m (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) at Ulley Reservoir Pleasley Road, Aughton for RMBC

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION.

1. Having regard to the Development Plan and all other relevant material considerations as set out below:
 - a) Development Plan
 - (i) RSS
Policy ENV 1 Development and Flood Risk
Policy SY1 South Yorkshire sub Area Policy SY Yorkshire sub area
 - (ii) Local Planning Policy
Unitary Development Plan:

Policy ENV 1 Green Belts

Policy ENV 1.2 Development in Areas of High Landscape Value.

Policy ENV 2 Conserving the Environment.

Policy ENV 2.2 Interest Outside Statutorily Protected Sites.

Policy ENV 2.3 Maintaining the Character and Quality of the Environment.

Policy ENV 3 Borough Landscape.

Policy ENV 3.1 Development and the Environment.

Policy ENV 3.2 Minimising the Impact of Development.

Policy ENV 3.4 Trees and Woodlands and Hedgerows.

Policy T8 Access.

- b) Other relevant material planning considerations
 - (i) National Planning Guidance:
 - PPG 2 Green Belts.
 - PPS 9 Biodiversity and Geological Conservation.
 - PPS 25 Development and Flood Risk

2. For the following reasons:

The proposal is for the repair of an existing dam, which was severely damaged by adverse weather conditions in 2007. It is considered that the proposals are essential for the use of open recreation and will not therefore constitute inappropriate development in the Green Belt.

It is also considered that the proposals have regard for climate change, will reduce the possibility of future flood risk, and secure a sustainable future for the existing valuable recreational resource at Ulley Country Park.

It is further considered that there would be no adverse effect on the openness of the Green Belt by way of the design scale and location of the development, that there would be no permanent or irretrievable loss to the ecology by way of loss of habitat, and that the proposals would enhance the existing ecology and recreational asset in accordance with the referred to Policies and guidance.

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

Conditions Imposed:

1.

[PC26] Effective steps shall be taken by the developer to prevent the deposition of mud and other material on the adjoining public highway caused by vehicles entering and leaving the site during the construction of the development.

2.

[PC37] No tree shall be cut down, uprooted or destroyed nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the

immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

3.

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

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

The extent of any changes to existing ground levels, where these are proposed.

- Any constraints in the form of existing or proposed site services, or visibility requirements.

- Areas of structural and ornamental planting that are to be carried out.

- The positions, design, materials and type of any boundary treatment to be erected.

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

- A written specification for ground preparation and soft landscape works.

The programme for implementation.

- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

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

4.

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.

5.

[PC40*] No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority*. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

6.

Before the development hereby approved is commenced on site, details of an Environmental Management Plan shall be submitted to and approved by the Local Planning Authority and the details agreed shall be implemented, in accordance with the plan.

7.

Before the development hereby approved is first commenced on site, the applicant shall provide the Local Planning Authority with the written approval of Natural

England, regarding the programme of measures, as advised by Natural England necessary to identify and accommodate any existing bat roost on the site.

8.

Within the first available planting season after commencement of the development the ecological mitigating measures identified in the submitted Ecological Assessment dated March 2009, shall be implemented.

9.

Within 1 month of the completion of the development hereby approved, the existing temporary access marked "A" on the attached plan shall be permanently closed and the highway verge reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.

10.

Before the development hereby approved is commenced on site details of a Traffic Management Plan shall be submitted to and approved by the Local Planning Authority, and the details shall be implemented throughout the construction period.

11.

Before the development hereby approved is commenced on site, details of a Construction Method Statement, including details of:

(i) the storage of plant,

(ii) the loading and unloading of plant,

(iii) arrangements for deliveries,

(iv) vehicular movements and staff movements, within the site and between the storage, parking and work areas, shall be submitted to and approved by the Local Planning Authority, and the approved details shall be adhered to throughout the construction period.

Reasons for Conditions:

1.

[PR26] In order to ensure the development does not give rise to problems of mud/material deposit on the adjoining public highway in the interests of road safety.

2.

[PR37] In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

3.

[PR38] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

4.

[PR38] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

5.

[PR40] To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3

'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

6.

In the interests of the ecology of the area in accordance with Policy ENV 2 Conserving the Environment and ENV 2.3 Maintaining the Character and Quality of the Environment of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

7.

In order not to disturb or deter the breeding or roosting of any statutorily protected roost of bats, and in the interests of the ecology of the area in accordance with Policy ENV 2 Conserving the Environment and ENV 2.3 Maintaining the Character and Quality of the Environment of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

8.

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

9.

[PR21] In the interests of road safety.

10.

[PR21] In the interests of road safety.

11.

[PR21] In the interests of pedestrian and highway safety.

Informatives:

INF 11B Control of working practices during construction phase (General)

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

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

INF 25 Protected species

Wildlife Legislation

The main piece of legislation relating to nature conservation in Great Britain is the Wildlife and Countryside Act 1981. This Act is supplemented by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and the Countryside and Rights of Way (CROW) Act 2000 (in England and Wales).

The information provided is a summary only and is based on information provided by the Joint Nature Conservation Committee (JNCC) (<http://www.jncc.gov.uk/>); for definitive information, primary sources should be consulted.

The Wildlife and Countryside Act 1981 (WCA) consolidates and amends existing national legislation in order to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the Conservation of Wild Birds (Birds Directive) in Great Britain.

The WCA makes it an offence (with exception to species listed in Schedule 2) to intentionally kill, injure, or take any wild bird or their eggs or nests. Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young. The WCA also prohibits certain methods of killing, injuring, or taking birds, restricts the sale and possession of captive bred birds, and sets standards for keeping birds in captivity.

The WCA makes it an offence (subject to exceptions) to intentionally kill, injure, or take, possess, or trade in any wild animal listed in Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. The Act also prohibits certain methods of killing, injuring, or taking wild animals.

The WCA makes it an offence (subject to exceptions) to pick, uproot, trade in, or possess (for the purposes of trade) any wild plant listed in Schedule 8, and prohibits the unauthorised intentional uprooting of such plants.

The WCA contains measures for preventing the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

The Conservation (Natural Habitats, &c.) Regulations 1994 transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) into national law. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education,

conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.

The Countryside and Rights of Way Act (CRoW Act) 2000 provides for public access on foot to certain types of land, amends the law relating to public rights of way, increases protection for Sites of Special Scientific Interest (SSSI) and strengthens wildlife enforcement legislation, and provides for better management of Areas of Outstanding Natural Beauty (AONB).

The CRoW Act improves the rights of way legislation by encouraging the creation of new routes and clarifying uncertainties about existing rights. Of particular relevance to nature conservation, the Act introduces powers enabling the diversion of rights of way to protect SSSIs.

The CRoW Act places a duty on Government Departments and the National Assembly for Wales to have regard for the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted, in accordance with the Convention on Biological Diversity.

Schedule 9 of the CRoW Act changes the Wildlife and Countryside Act 1981, amending SSSI notification procedures and providing increased powers for the protection and management of SSSIs. The provisions extend powers for entering into management agreements, place a duty on public bodies to further the conservation and enhancement of SSSIs, and increase penalties on conviction where the provisions are breached, with a new offence whereby third parties can be convicted for damaging SSSIs. To ensure compliance with the Human Rights Act 1998, appeal processes are introduced with regards to the notification, management and protection of SSSIs.

Schedule 12 of the CRoW Act amends the Wildlife and Countryside Act 1981, strengthening the legal protection for threatened species. The provisions make certain offences 'arrestable', create a new offence of reckless disturbance, confer greater powers to police and wildlife inspectors for entering premises and obtaining wildlife tissue samples for DNA analysis, and enable heavier penalties on conviction of wildlife offences.

The following information outlines the legislation with respect to different species or groups; the information is not definitive and is intended to provide general guidance only.

Bats

All species of bats and their roosts are protected by UK and European legislation. Roosts are equally protected whether bats are present or not. All bat species are listed on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and are therefore subject to the provisions of Section 9, which makes it an offence to:

- Intentionally kill, injure or take a bat
- Possess or control any live or dead specimen or anything derived from a bat
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by a bat

- Intentionally or recklessly disturb a bat while it is occupying a structure or place which it uses for that purpose.

Bats are further protected under the Conservation (Natural Habitats, &c.) Regulations 1994, which includes the absolute offence of damaging or destroying a breeding site or resting place of any bat. This absolute offence puts the onus on builders and contractors to undertake a survey prior to any work being done. Developers and environmental consultants jointly share the responsibility for designing and implementing a mitigation scheme that meets planning and licensing requirements, and in particular will ensure as far as possible the long term future of any populations affected; such schemes should employ 'best practice'.

Water Vole

The water vole receives full protection under the provisions of section 9 of the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to:

- Intentionally kill, injure or take water voles,
- Possess or control live or dead water voles or derivatives.
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection,
- Intentionally or recklessly disturb water voles whilst occupying a structure or place used for that purpose,
- Sell water voles or offer or expose for sale or transport for sale,
- Publish or cause to be published any advertisement which conveys the buying or selling of water voles.

Local Planning Authorities, in common with all public authorities, have a duty to conserve biodiversity under section 40 of the NERC Act 2006. The water vole is included in the Government's list of species of principal importance for the conservation of biodiversity in England and thus requires special attention.

Where proposed development or maintenance work requires planning permission the Local Planning Authority will need to show regard for the conservation of water voles in reaching their planning decision.

As a protected species, water voles are a material consideration, as described in PPS9, and planning authorities should ensure that they have adequate information about water voles before determining a planning application.

In the case of developments involving riparian or other waterside habitats, Local Planning Authorities should require applicants to check for the presence of water voles by a combination of field survey, undertaken by an appropriately trained and experienced ecological surveyor, and consultation with local records centres. In Rotherham proposals affecting or within 50m of rivers, streams, canals, lakes, swamps, reedbeds or other aquatic habitats are required to submit appropriate survey and assessment work under the Validation of Planning Applications policy document.

The legislative information given above is intended as general guidance only and is not comprehensive.

Great Crested Newt

The great crested newt receives legal protection through its inclusion in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and is subject to the provisions of Section 9. Great crested newts are further protected under the Conservation (Natural Habitats, &c.) Regulations 1994. Thus it is an offence to:

- Intentionally or deliberately kill, injure or take a great crested newt
- Deliberately disturb great crested newts or intentionally or recklessly disturb them in a place used for shelter or protection
- Damage or destroy a breeding site or resting place
- Intentionally or recklessly damage, destroy or obstruct access to a place used for shelter or protection
- Possess a great crested newt, or any part of it, unless acquired lawfully
- Sell, barter, exchange or transport or offer for sale great crested newts or parts of them.

The legislation covers all life stages; eggs, tadpoles and adult newts are all equally covered.

Breeding Birds

All birds, their nests and eggs are protected by law and it is an offence under the Wildlife and Countryside Act 1981 (as amended), with certain exceptions, to:

- Intentionally kill, injure or take any wild bird,
- Intentionally take, damage or destroy the nest of any wild bird while it is in use or being built,
- Intentionally take or destroy the egg of any wild bird.

Certain species receive increased protection; it is an offence to:

- Intentionally (or recklessly in England and Wales only) disturb any wild bird listed on Schedule 1 while it is nest building or is at (or near) a nest with eggs or young; or disturb the dependant young of such a bird.

Badgers

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

References

Joint Nature Conservation Committee www.jncc.gov.uk (16 August 2007)

Froglife 2001 Great Crested Newt Conservation Handbook

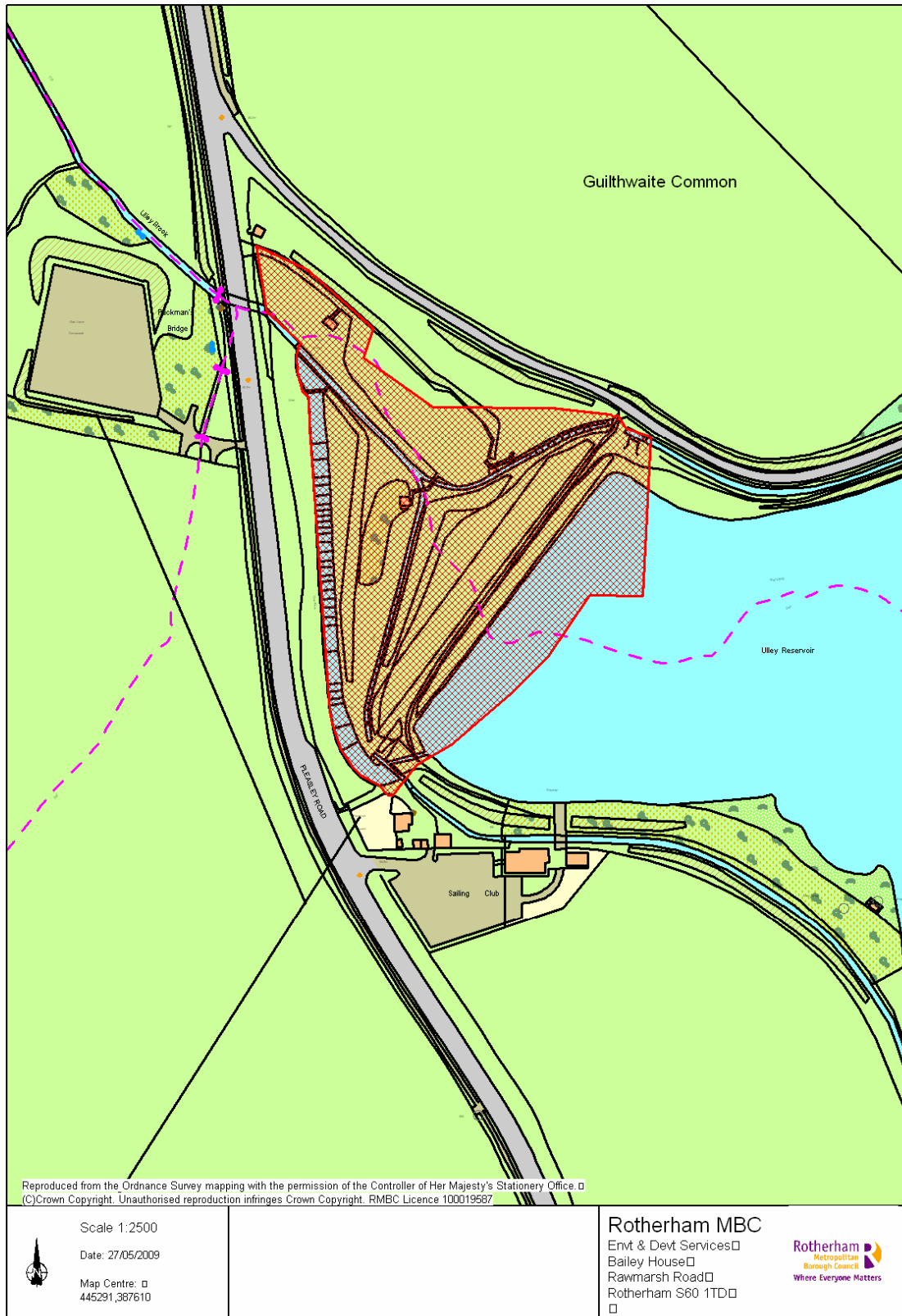
English Nature 2004 Bat Mitigation Guidelines

English Nature, Environment Agency & the Wildlife Conservation Research Unit 1998

Water Vole Conservation Handbook

RSPB 2001 Wildbirds and The Law

English Nature 2002 Badgers and Development



Background

Ulley Reservoir was constructed in 1871 to supply drinking water to Rotherham. In the 1980's it was found to be surplus to requirements by the Water Authority and sold to Rotherham Borough Council. The site was designated a Country Park in 1986, and provides an important area of accessible open green space supporting a nature reserve along with a variety of recreational and educational uses, including sailing, angling, walking and cycling for the local population. At the present time, public access to the country park is severely restricted as a consequence of the damage caused by severe weather conditions in 2007.

In the summer of 2007 the dam and spillways along the western edges of the reservoir were significantly damaged as a result of adverse weather conditions. The disintegration of one of the masonry spill ways caused a major scour hole on the down stream face of the dam, exposing seepage cracks within the structure of the dam.

A breach of the dam would cause significant damage to critical transport and infrastructure provision, including the M1 Motorway, a section of high voltage power line, high pressure gas main, water treatment works and a regional electricity station. In addition it would have a potentially catastrophic effect on the nearby villages of Whiston, Catcliffe and Treeton. The dam was sufficiently damaged for the Council to seek emergency action to mitigate the impact of any subsequent dam breach. These actions included closing the M1 Motorway and evacuation of 700 people from nearby villages.

The urgency of the situation and unpredictable weather conditions meant that the Council had to act quickly to minimise potential damage. The reservoir could not be properly repaired quickly, and the only solution was to infill the dam wall and import high volume pumps to reduce the water level in the reservoir and thus reduce the pressure on the dam.

Further studies revealed the need for additional stabilisation works, and repairs to the dam structure. Currently four of the hired pumps remain on site, which control the water level compared to the pre 2007 level, and discharge the excess water further down stream. Interim emergency repairs comprised importation of limestone to fill the two overflows and the damaged area of the dam wall. These works do not comprise a complete solution and the additional required measures, to ensure the reservoir can return to the pre storm level, control the potential for flood risk and prevent the recurrence of the damage caused in 2007, form the proposals in the current application for planning permission.

A screening opinion in accordance with the Town and Country Planning Environmental Impact Regulations 1999, was carried out in relation to the proposals, which concluded:

"The proposed development falls within the description contained at paragraph 13(a) (Any change or extension of a development of a description listed in Schedule 1) of Schedule 2 to the 1999 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Local Planning Authority, having taken into

account the criteria set out in Schedule 3 to the 1999 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Further details of the Screening Opinion are attached.

Accordingly the Local Planning Authority has adopted the opinion that the development referred to above for which planning permission is sought is not EIA development as defined in the 1999 Regulations."

Site Description & Location

The site of application is the dam structure itself, at Ulley Reservoir, within Ulley Country Park, which comprises 17 hectares of land, 12 of which contain the lake, and is located approximately 1.1 kilometres to the west of Ulley Village. The surrounding area is attractive rural countryside. The dam crest runs north east to south west, the lake being on the south eastern side. To the north west the dam face falls to a valley and Ulley Brook to which the reservoir run off discharges. The sides of that valley are topped by Reservoir Road on the northern side and Pleasely Road to the west. Within the valley is a small wild life pond to the north of the brook. The area generally has mature screening which in conjunction with the contours of the land results in the site not being readily visible from outside the immediate locality.

Proposal

The proposals incorporate the construction of a replacement spillway which is bridged by a new pedestrian footbridge, stabilisation works to the dam wall, the construction of a new draw off pipe, replacement of the wild life pond which will be lost to the works, and enhancement of the riprap wave impact protection.

Replacement spillway:

There are currently three spillways, two of which are partially filled. The proposals will complete the infilling of all three and provide a new 20m wide spillway centrally located on the dam face. The spillway will transfer to a stilling basin, to dissipate the energy of the fast flowing water, and then to a length of "stream training works" which will reduce the width of the water stream, prior to discharging to Ulley Brook.

Stabilisation works:

Will be carried out to strengthen the dam core, and repair any seepage cracks. The top 0.5m of the dam crest will be removed to facilitate these works. The material removed will be used to fill the existing spillways, and allow access for plant.

Replacement Draw off pipe:

There is an existing draw pipe and tunnel which were previously used to withdraw water from the dam when necessary, and are currently unused. The proposals will utilise the existing Tunnel and replace the draw off pipe, for regulation of the water levels in the future.

Riprap Wave impact protection enhancement:

The riprap is the embankment and strengthening on the water side of the dam and absorbs wave energy. The proposals are to strengthen and enhance the riprap with the addition of new material.

Pedestrian footbridge:

The footbridge across the top of the new spillway will be approximately 20m in length, and will comprise timber decking and parapets on steel beams and be 1.2m wide with 1.1m high parapets. Access would be ramped to allow wheelchair as well as pedestrian access.

New Pond:

To replace the existing pond, and would be located at the foot of the spillway to the north of Ulley Brook.

The application is accompanied by a Design and Access Statement, Flood Risk Assessment, a Statement of Community Involvement, an Ecological Assessment, A Tree Survey and a Transport Assessment.

Design and Access Statement:

Repeats much of the contents in the background section above, explaining the damage to the dam, emergency works carried out, and the necessary replacement and rehabilitation works. It indicates that at the present time public access is restricted, the visitor centre and dam wall being currently closed, and that during the construction period, the whole of the recreational use will be lost for a short period of time(approximately 6 to 9 months, depending on weather conditions for refilling the lake). Access for construction traffic will be via the main access to Pleasely Road as well as the temporary access used during emergency repair works which is also in Pleasely Road. The storage compound will be on the existing car park.

The statement also points out that the new works, when completed, will allow the public full enjoyment of all the facilities of Ulley Country Park, and will including a new footbridge enabling pedestrian and wheel chair access across the spillway.

Flood Risk Assessment:

Concludes that in terms of the overall flood risk to the land and assets downstream of the reservoir, there will be significant reduction insofar as the proposals will ensure a controlled flow of water from the reservoir and be designed to cope with a probable maximum flood, which is approximately twice the 1 in 10, 000 year event. It also points out that whilst the enlarged spillway will not attenuate peak flows as much as the existing one, the dam will continue to reduce the peak flows down stream associated with normal operation compared to a situation where no dam exists. The reduction in the extent to which the flood flows are attenuated will also mean that flows from Ulley Brook are likely to pass through the system before the main flood peak occurs on the River Rother (the Rother has controlled flow during flood). This should result in a small reduction in the risk to communities affected by flooding on the River Rother.

Statement of Community Involvement:

Indicates that extensive consultation, including two way dialogue, has been carried out with user groups of Ulley Country Park and the wider Rotherham community, including Ulley Sailing Club, and the Friends of Ulley Country Park, on both a formal and informal basis. Friends of Ulley Country Park presented a 4,000 name petition in support of retention of the reservoir in 2007.

Formal presentations of design proposals were carried out for Friends of Ulley Country Park on the 25th September 2008 and Ulley Sailing Club on 26th November 2008.

Additionally, the proposals were advertised through "Rotherham News" which is distributed free throughout the Borough.

Ecological Assessment:

Concludes that the development will result in significant, but localised effects on flora and fauna in the area. These will be site specific and temporary, as a direct result of the essential repair works. It also points that subject to the identified mitigation, enhancement and monitoring measures suggested the proposals offer an opportunity to enhance the local wildlife habitats.

Tree Survey:

Indicates that some trees in the vicinity will need to be removed as a result of the works and some need to be removed for reasons of public safety. In this respect the proposals include a scheme of replacement tree and shrub planting.

Transportation Assessment:

Concludes that the works will have negligible impact on the local highway network. Construction vehicles will remain on site for the duration of the six months work period, staffing numbers will be 30, and deliveries will be distributed throughout the construction period.

Development Plan Allocation and Policy

01. RSS Policies

ENV 1 Development and Flood Risk:

The Region will manage flood risk pro-actively by reducing the causes of flooding to existing and future development, especially in tidal areas, and avoid development in high flood risk areas where possible.

SY1 South Yorkshire sub Area Policy, states that strategies investments, decisions and programmes for South Yorkshire should amongst other things, adapt to climate change by helping to alleviate flood risk, particularly in the upland areas of the South Pennines; ensuring compensatory sites for biodiversity and species migration, especially in the South Pennines; and increasing and enhancing urban planting, green space and biodiversity networks in Sheffield, Rotherham, Barnsley and Doncaster, and manage flood risk in line with policy ENV1 in all parts of South Yorkshire at risk from flooding.

02 UDP Policies

Policy ENV1 Green Belt:

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

construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- (i) agriculture and forestry (unless permitted development rights have been withdrawn),*
- (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it,*
- (iii) limited extension, alteration or replacement of existing dwellings,*
- and*
- (iv) limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing)."*

Policy ENV1.2 Development in Areas of High Landscape Value

"In Areas of High Landscape Value, development other than for agriculture will only be allowed where it will not result in a significant, and permanent adverse impact on the landscape. New agricultural buildings and ancillary development requiring planning permission will normally be allowed,

Policy ENV2 Conserving the Environment

"In considering any development, the Council will ensure that the effects on the wildlife, historic and geological resources of the Borough are fully taken into account. In consultation with the relevant national agencies and local interest groups, the Council will ensure the protection of these resources while supporting appropriate development which safeguards, enhances, protects or otherwise improves the conservation of heritage interests. The Council will only permit development where it can be shown that:

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

Policy ENV2.2 Interest outside Statutorily Protected Sites:

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

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

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

Policy ENV3 Borough Landscape:

“The Council recognises the vital importance of maintaining and enhancing the landscape of the Borough, pursuing and supporting this objective through positive measures or initiatives and, when considering development or other proposals, taking full account of their effect on and contribution to the landscape, including water resources and environments.”

Policy ENV3.1 Development and the Environment:

“Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property. Developers will be required to supply details of design and landscaping for approval by the Council and where developments adjoin or include a transport route or other important linear feature (e.g. a river, canal or stream) the Council will negotiate the creation or maintenance of a landscaped ‘green corridor’.

Policy ENV3.2 Minimising the Impact of Development:

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

Policy ENV3.4 Trees, Woodlands and Hedgerows:

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

Policy T8 Access:

“The Council will seek to meet the access needs of people with mobility and sensory handicaps by promoting careful design and improved provision in both the refurbishment and development of buildings, public spaces, community facilities and transport networks through the development control process and in the course of public service delivery.”

Other Material Considerations

Central Government Guidance:

PPG 2 Green Belts states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances.

Paragraph 3.2 states that “Inappropriate development is by definition harmful to the Green Belt.” “Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the

Green Belt when considering any planning application or appeal concerning such development.”

It further states in paragraph 1.6, that Green Belts have a positive role to play in fulfilling certain objectives, two of which are:

- (i) To provide opportunities for outdoor sport and outdoor recreation near urban areas.*
- (ii) To retain attractive landscapes, and enhance landscapes, near to where people live.*

PPS 9 Biodiversity and Geological Conservation has a broad aim that planning, construction, development and regeneration should have minimal impacts on biodiversity and enhance it where possible.

PPS 25 Development and Flood Risk, states that Local Authorities should identify areas at risk of flooding, and where possible manage any residual flood risk.

At the planning stage a flood risk assessment will be required to demonstrate how all sources of flood risk to the development, and others will be managed, now, and taking into consideration climate change.

Publicity

The application was advertised on site and in the press. One letter of representation has been received expressing concern that the bridge across the spillway may not be sufficiently accessible for disabled people.

Consultations

Transportation Unit:

No objections subject to closing of the temporary access to Pleasely Road, submission of a traffic management plan, no mud to be deposited on the highway, and submission of a construction method statement.

Ecology Officer:

No objections subject to implementation of the mitigation and compensation proposals indicated in the Ecology Report, and subject to the submission of an Environmental Management Plan before works are commenced on site.

Environment Agency:

No objections.

Natural England:

Recommend that a bat survey be carried out and an appropriate informative regarding bats be attached to any planning permission which may be issued.

Appraisal

In the summer of 2007 the dam and spillways along the western edges of the reservoir were significantly damaged as a result of adverse weather conditions. The disintegration of one of the masonry spill ways caused a major scour hole on the

down stream face of the dam, exposing seepage cracks within the structure of the dam.

A breach of the dam would cause significant damage to critical transport and infrastructure provision, including the M1 Motorway, a section of high voltage power line, high pressure gas main, water treatment works and a regional electricity station. In addition it would have a catastrophic effect on the nearby villages of Whiston, Catcliffe and Treeton.

The reservoir could not be properly repaired quickly at the time of the emergency in 2007 and consequently a temporary repair was carried out. At the present time pumps remain on site to control the water level in the dam.

Further studies revealed the need for additional stabilisation works, and repairs to the dam structure, which form the content of this application for planning permission, and are to ensure the reservoir can return to the pre storm level, control the potential for flood risk and prevent the recurrence of the damage caused in 2007.

The proposal must be considered in the light of relevant policies in the Development Plan and Central Government advice.

The main issues relating to the proposals are therefore:

- (i) The principle of the development.*
- (ii) The effect on the openness of the Green Belt*
- (iii) The effect on the landscape.*
- (iv) The effect on the ecology.*
- (v) Flood risk.*
- (vi) Representation received.*

(i)

The principle of the development:

Policy ENV 1 Green Belts states that there is a presumption against the granting of planning permission for development in the Green belt unless it is essential for the use of agriculture forestry or open recreation. PPG 2 Green Belts, states that inappropriate development in the Green Belt is harmful by definition and that permission will not be granted in such areas unless there are very special circumstances to clearly outweigh the harm by inappropriateness and any other harm. The proposed development comprises essential works to make safe the existing dam which would then enable the reopening of Ulley Country Park and realisation of its full potential and value to the recreational needs of the area. It is therefore considered that the proposals are essential for the use of open recreation, are acceptable in principle, and would not therefore constitute inappropriate development in the Green Belt. Consequently the proposals would be in accordance with Policy ENV 1 Green Belts of the Unitary Development Plan and advice in PPG 2 Green Belts.

(ii)

The effect on the openness of the Green Belt:

PPG 2 Green Belts also states that the main attributes of green belts are their openness. The site of application is an existing dam within the Green Belt and an Area of High Landscape Value, and the works will result in a new 20m wide concrete spillway, down the existing grassed dam face, and topped by a wooden bridge. However, there are three existing spillways which will be filled and grassed as part of the proposals, and the existing mature landscaping and topography in the immediate area result in the site not being readily visible outside the immediate locality. Additionally there would be further landscaping carried out as part of the mitigating measures identified in the submission. It is therefore considered that there will be no material adverse effect on the openness of the Green belt and that there would be no conflict with Policies ENV 1 Green Belts, ENV 1.2 Development in Areas of High Landscape Value, ENV 2 Conserving the Environment, ENV 2.3 Maintaining the Character and Quality of the Environment, ENV 3 Borough Landscape, ENV 3.1 Development and the Environment, and ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan and advice in PPG 2 Green Belts.

(iii)

The effect on the landscape:

Policies ENV 2.2 Interests Outside Statutorily Protected Sites and ENV 2.3 Maintaining the Character and Quality of the Environment seek to justify development and mitigate its effect on any interest outside statutorily protected sites, and any environmental interest. The scheme will affect the interest, insofar as the existing pond and some trees will be lost to the development. However in all other respects the proposal will improve and enhance the interest of Ulley Country Park by providing a safe and stable dam, and appropriate mitigating measures in the form of a replacement wild life pond, and tree/shrub planting will be carried out. Moreover, the development would in turn help to ensure the sustainable future of the valuable recreational resource Ulley Country Park.

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

(iv) The effect on the ecology:

As indicated above the proposal would result in the loss of trees and the existing wild life pond. The loss of the pond and the great majority of the trees to be felled would be as a direct result of the essential works required to stabilise the dam and provide the new spillway. Other trees lost would be for public safety reasons, due to their condition. The effect on the ecology is therefore unavoidable if the dam is to be made safe and the future of Ulley Country Park secured. Additionally, ecological mitigation and enhancement measures are proposed and will be reinforced by recommended conditions. Any effect would therefore be localised and temporary.

It is therefore considered that there will be no conflict with Policies ENV 2.3 Maintaining the Character and Quality of the Environment, ENV 3.2 Minimising the Impact of the development and ENV 3.4 Trees and Woodlands of the Unitary Development Plan, and advice in PPS 9 Biodiversity and Geological Conservation.

(v) Flood Risk:

The submitted Flood Risk Assessment concludes that in terms of the overall flood risk to the land and assets downstream of the reservoir, there will be a significant reduction, insofar as the proposals will ensure a controlled flow of water from the reservoir and be designed to cope with a probable maximum flood, which is approximately twice the 1 in 10 000 year event. It also points out that whilst the enlarged spillway will not attenuate peak flows as much as the existing one, the dam will continue to reduce the peak flows down stream associated with normal operation compared to a situation where no dam exists. The reduction in the extent to which the flood flows are attenuated will also mean that flows from Ulley Brook are likely to pass through the system before the main flood peak occurs on the River Rother (the Rother has controlled flow during flood). This should result in a small reduction in the risk to communities affected by flooding on the River Rother. In addition the Environment Agency has raised no objections to the proposals.

It is therefore considered that the proposals have regard for climate change and would reduce the risk of flooding in the future, in accordance with Policies ENV 1 Development and Flood Risk, and SY 1 South Yorkshire sub Area of the Regional Spatial Strategy, and advice in PPS 25 Development and Flood Risk.

(vi) Representation received:

The proposed bridge would be 1.2m wide and could accommodate a wheelchair. Additionally, the access paths and ramps would be at an incline of not more than 1 in 20. In this respect the applicants have indicated that whilst the bridge would not be wide enough for two way wheel chair traffic, it is not unreasonable to have a give and take situation over such a short distance (20m) and for such low volumes of traffic. As such, it is considered that adequate disabled access around the site would be provided

Conclusions

The proposal is for the repair of an existing dam, which was severely damaged by adverse weather conditions in 2007. The proposal would have regard for climate change, reduce the possibility of future flood risk, secure enhancement of the existing ecology and secure a sustainable future for the existing valuable recreational resource at Ulley Country Park, in accordance with all the referred to policy and advice. In view of the above it is recommend that permission be granted subject to the safeguard of the recommended conditions.

The Town and Country Planning (Green Belts) Direction 2005, requires development within the Green Belt to be referred to Government Office which "by reason of its scale nature or location would have a significant impact on the openness of the Green Belt". In this instance the impact on the openness of the Green Belt is not considered to be significant, being very localised, and would be mitigated to a great extent by the existing planting, land form, and the proposed enhancement measures. It is therefore considered that the application should not be referred to the Government Office.

RB2009/0420

Completion of site capping by placement of a low permeability layer to seal exposed waste material, creation of lagoon to attenuate surface water run-off from new capping and extension of the period of final planting to 1st June 2014 (previously approved under RB2008/0624) at former Laporte Landfill, Gin House Lane, Thornhill for Laporte Industries Ltd.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

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

a) Development Plan

Local Planning Policy: Rotherham UDP

ENV1.4 'Land Adjacent to Green Belt'

ENV3.1 'Development and the Environment'

ENV3.2 'Minimising the Impact of Development'

ENV5.1 'Allocated Urban Greenspace'

WM1.2 'Assessment of Waste Management Proposals'

b) Other relevant material planning considerations

PPS1 'Delivering Sustainable Development'

PPS9 'Biodiversity and Geological Conservation'

PPS10 'Planning for Sustainable Waste Management'

2. For the following reasons:

The proposed capping layer over the landfill site would not lead to harm to the surrounding environment, or lead to significant traffic/highway problems. The planting scheme would benefit the restoration of the site in terms of its appearance, ecological value and overall value as part of the formation of an eventual landscaped green space. The proposed balancing pond would not be harmful to the surrounding environment or to its character and appearance and would help to reduce the risk of localised flooding. The proposal would therefore comply with the above UDP policies and Government planning guidance under PPS1, PPS9 and PPS10.

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

Conditions Imposed:

The development hereby permitted shall be carried out in accordance with drawings nos. FC1001/2/PLANNING01, FC1001/2/PLANNING02, FC1001/2/03 and FC1001/2/07 received 8th April 2009, drawing no. FC1001/2/08 Rev. 2 received on 22nd May 2009, and in accordance with the "Supporting Statement Revision 1" and the proposed tree and shrub planting shall be completed by 1 June 2014.

02

Subsoil and topsoil as is available on the site shall be used in conjunction with clay and geo-synthetic clay imported to the site to give a general minimum surface dressing of 500mm across the site. The final restored surfaces shall be ripped and worked to achieve a satisfactory tilth and thereafter fertilised and seeded. In the process of such operations any residual large stones, bricks, wire or other objects encountered and which are likely to be injurious to cultivating equipment shall be removed from the surfaces being so treated.

03

Prior to the completion of the final restoration contours, a revised landscape scheme shall be submitted that shall include:

- Details of ground conditions, preparation for planting and method of planting.
- Details of protection of trees and shrubs from browsing.
- A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- The programme for implementation.
- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice within a timescale agreed, in writing, by the Local Planning Authority.

04

[PC38D] 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.

05

Details of measures to enhance the ecological interest of the balancing pond shall be submitted to and approved by the Local Planning Authority before works on the balancing pond commence and such measures shall be implemented in accordance with the approved details.

06

Surface water forward flows out of the site from the balancing pond hereby approved shall not exceed 5 litres/second/Ha.

07

Prior to the commencement of development, details of the future management and maintenance of the balancing pond and associated watercourse within the site shall be submitted to and approved by the Local Planning Authority and the approved details shall thereafter be implemented.

08

The balancing pond shall be provided with a hydrobrake flow control device, in accordance with details to be submitted and approved by the Local Planning Authority.

09

[WC15] Effective steps shall be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

10

[WC45] At all times during the carrying out of operations authorised or required under this permission, best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

Reasons for Conditions:

01

In the interests of the amenities of the area and the surrounding environment.

02

To enable the progressive restoration of the site following tipping to final levels and to ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of the amenities of the area and the surrounding environment and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

03

[PR38B] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

04

[PR38D] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

05

In the interests of the ecological value of the site in accordance with UDP Policy ENV3.2 'Minimising the Impact of Development' and Planning Policy Statement 9 'Biodiversity and Geological Conservation'.

06

To ensure that the development can be properly drained and to prevent flooding.

07

To ensure that the development can be properly drained and to prevent flooding.

08

To ensure that the development can be properly drained and to prevent flooding.

09

[WR15] In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity.

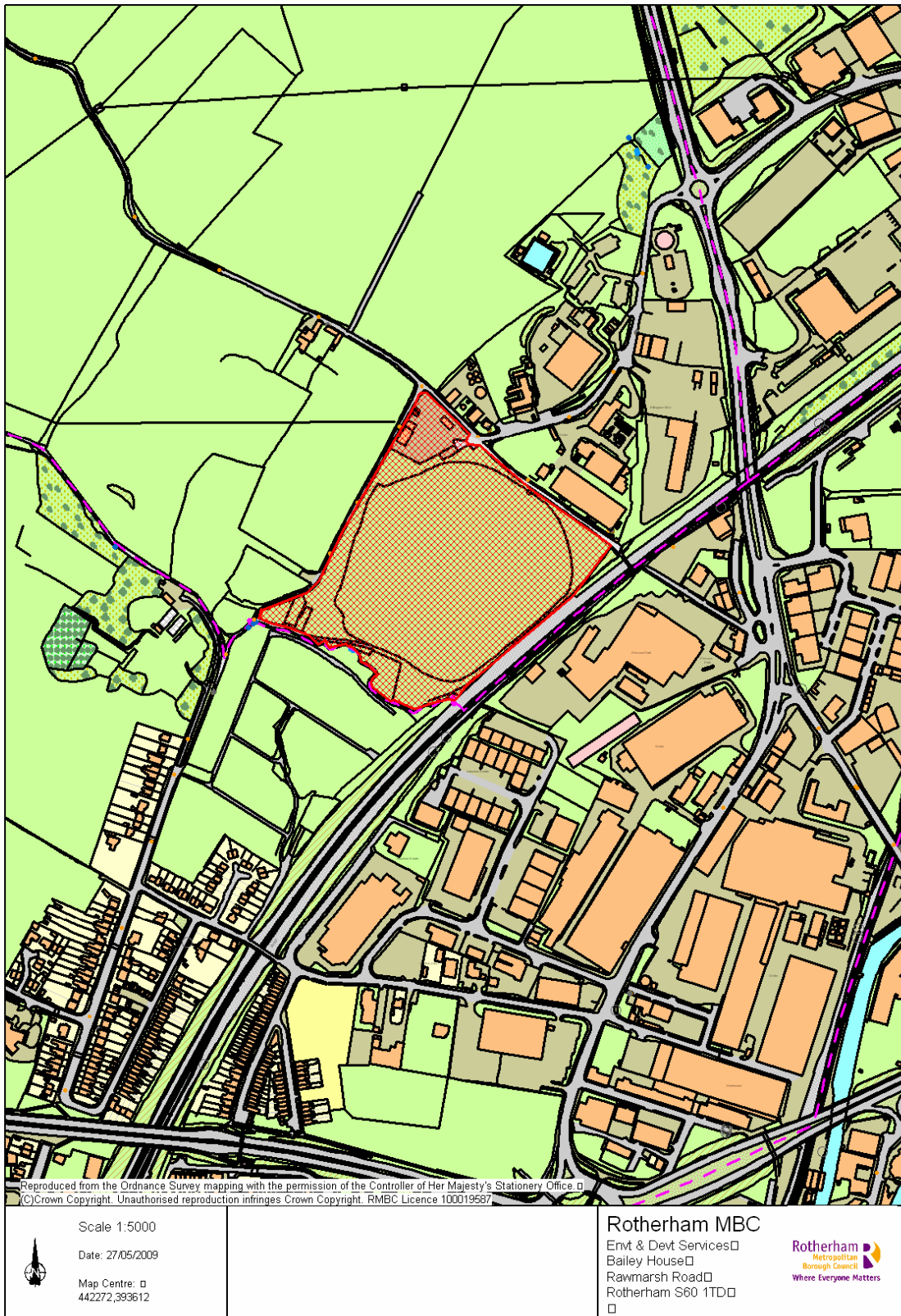
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[WR45] In the interests of local amenity.

Informatives

1) The applicant is advised, in the interest of the biodiversity value of the grassland areas, to undertake an annual grass cut following the breeding bird season with all cuttings being removed from the site.

2) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our New Development Team in Sheffield (telephone 0845 124 24 24, Fax 01274 303 047) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.



Background

The site was formerly a quarry but has been used for the tipping of industrial waste by Laporte Industries from the 1950's onwards. A 1987 planning application to extend the waste disposal site was granted permission (ref R87/1770P). This included further tipping for another ten years, the neutralisation of fluoride-based chemicals with lime, and the subsequent restoration of the site involving the formation of a capping layer, tree planting and landscaping to form a public open space. The site has since been allocated as Urban Greenspace in the Rotherham UDP (adopted 1999).

Planning permission was granted in 1998 for the continuation of the use of site until 1st June 2008 (renewal of Planning Permission R87/1770P) (RB1998/0330).

The subsequent planning applications are as follows:

RB2008/0624: Variation to Condition 01 (works to be completed by 1 June 2008) imposed by R98/0330P to allow restoration works to be completed by June 2010. Planning Permission granted.

RB2008/0918: Erection of 2.4m high palisade fencing. Planning Permission granted.

Site Description

The site comprises a former landfill site which is currently being restored and is proposed to become a landscaped green space. Ginhouse Lane, which provides the entrance to the site, and the Victrex manufacturing plant lie to the north-east. Quarry Lane and Green Belt land lie to the north-west. Allotments (also allocated as an "Urban Greenspace") lie to the south-west and a railway lies to the south-east. The site has an area of 2.2 hectares. The site is not within a flood plain.

Proposals

The application proposes the capping of the former landfill site with a low permeability layer to minimise potential future rainfall infiltrating the site. This would also allow the collection of clean surface water which would run off and be captured by a proposed balancing pond near the entrance to the site on Ginhouse Lane. The creation of the pond would lead to a variation in the previously approved land contours on that part of the site of no more than 3 metres. The surface water from the balancing pond is intended to flow into a culverted stream near the north end of Ginhouse Lane via a new sewer to be laid in Ginhouse Lane. The other purpose of the pond is to restrict the flow of water which would be passed from the landfill site into the stream in the interests of flood prevention. The outlet at the pond would also contain a "hydrobrake" flow control device. It would also contain an overflow pipe which would divert the water to a seasonal stream near the south-western boundary of the site. The Environment Agency will be carrying out monitoring checks on the quality of the water leaving the site to ensure good water quality.

The importation of materials to restore the site involves a total of 620 vehicle movements to increase the depth of restoration soils to a minimum of 500mm. A timescale up to 2014 is needed to complete the works (to allow groundwater monitoring and assessment of the effectiveness of the cap prior to landscaping).

The application is accompanied by a Supporting (Design and Access) Statement which outlines the above details and gives further details of contamination assessment, hazardous substances (stating that no waste materials will be imported or exported as part of this proposal), future monitoring and maintenance, access arrangements, and the confirmation that the proposed works will be subject to Site Waste Management Plan Regulations 2008.

A drawing to show the landscaping of the site together with planting species and details has also been submitted.

Development Plan Allocation and Policy

UDP Policies

ENV1.4 'Land Adjacent to Green Belt' aims to ensure that development is sympathetic to the environmental quality and appearance of adjacent Green Belt land.

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

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

ENV5.1 'Allocated Urban Greenspace' looks to prevent the loss of urban greenspace unless alternative provision or an equivalent community benefit is provided elsewhere.

WM1.2 'Assessment of Waste Management Proposals' aims to ensure that proposals relating to waste disposal sites/facilities have an acceptable impact on, amongst other things, nature conservation, air quality, water resources, public health and safety and landscape quality.

Other Material Considerations:

Planning Policy Statement 1 (PPS1) 'Delivering Sustainable Development', was published in 2005 and encourages a high quality design and layout of development.

PPS9 'Biodiversity and Geological Conservation' aims, amongst other things, to protect and enhance biodiversity as part of development proposals.

PPS10 'Planning for Sustainable Waste Management' aims, amongst other things, to help secure the disposal of waste without endangering human health and without harming the environment.

Publicity

The proposal was advertised in the press and a site notice was erected. Letters were also sent out to adjacent occupiers. One letter has been received in response. It is from Victrex (occupiers of land to the north of the site) who support the proposal providing that conditions are added to restrict deliveries and prevent spillages of import materials from delivery vehicles onto the road.

Consultations

Council Transportation Unit: No objection on the basis that the scheme will involve 620 deliveries over the restoration period to complete the scheme and subject to the conditions attached to the previous permissions.

Council Mains Drains: No objection subject to further information of the maintenance proposals for the balancing pond and watercourses systems in perpetuity.

Council Streetpride (Landscaping): No objection subject to details relating to ground preparation and planting methods, protection of trees/shrubs and arrangements for aftercare and replacement planting which can be achieved by way of a landscaping condition.

Council Ecology: No objection subject to a condition requiring further plans for the attenuation pond in order to demonstrate the enhancement of biodiversity.

Council Environmental Health Service: Envisage no significant loss of amenity by virtue of noise, air quality or land pollution impact and as such would raise no further comment.

Council Public Rights of Way: The PROW to the north-west of the site appears to be unaffected by the proposal

Environment Agency: No objection with regard to flood risk and pollution providing a condition is added to ensure that development is carried out in accordance with the measures outlined in the applicants supporting statement which include limiting the surface water run-off from the site to a maximum discharge rate of 5 litres/second/hectare and the inclusion of a hydrobrake flow control device for the balancing pond.

Yorkshire Water: No objection.

Health and Safety Executive: Do not advise, on safety grounds, against the granting of planning permission.

Appraisal

The main considerations in the determination of this application are as follows:

- The principle of the proposal in view of planning policies and guidance*
- impact of the amended capping layer and landscaping for the landfill site, and proposed balancing pond, on the appearance of the area and the surrounding environment in general.*
- impact on traffic generation and highway safety.*

The principle of development:

In terms of the principle of the proposal, the development represents an amendment to the previously approved restoration of a landfill site, the principle of which is deemed to comply with PPS10 'Planning for Sustainable Waste Management' and UDP Policy WM1.2 'Assessment of Waste Management Proposals'. As the restoration would also lead to the creation of a landscaped green space, this is consistent with the land allocation in the UDP for an Urban Greenspace on this site and hence would comply with Policy ENV5.1 'Allocated Urban Greenspace'.

The impact on the surrounding environment:

With regard to the impact on the appearance of the area in relation to the previously approved restoration scheme, the revised capping layer for the remaining uncovered part of the site would lead to an increase in the height of land not exceeding one metre. It is not considered this would lead to a significant impact on the appearance of the area and it would not have any additional impact on the character of the adjacent Green Belt land. The most noticeable change would be the addition of a pond near the site entrance. It is considered that this would be a visual improvement to the area and it would also benefit from proposed tree screening. The proposal would therefore comply with UDP policies ENV3.1 'Development and the Environment' and ENV4.1 'Land Adjacent to Green Belt'.

With regard to other environmental considerations, the proposal would result in a thicker capping layer and the addition of a low permeability layer to reduce rainwater infiltrating through to the landfill material underneath the drainage of the site. The proposed pond is designed to reduce the rate of the flow of surface water out of the site into surrounding watercourses helping to alleviate flood risk and is also designed to control overflow via the inclusion of an overflow pipe. It is therefore considered this would be more beneficial to the surrounding environment and flood risk than the previously approved scheme and no objection is raised to the design of the capping layer and balancing pond by the Environment Agency and the Council's Mains Drainage Officer.

The variation to the planting on top of the proposed capping layer is acceptable subject to further details of planting methods, protection and maintenance. The overall restoration of the site would help to enhance biodiversity but further details are required particularly in relation to the pond as this is a new feature of the restoration scheme. It has the potential to further increase the biodiversity value of the site and therefore a condition has been added requiring details of biodiversity measures for the pond. In view of the overall improved impact on the surrounding environment, the proposal would comply with UDP Policies ENV3.1 'Development

and the Environment' and WM1.2 'Assessment of Waste Management Proposals' and also PPS1 'Delivering Sustainable Development, PPS9 'Biodiversity and Geological Conservation' and PPS10 Planning for Sustainable Waste Management'.

Impact on traffic and highway safety:

Finally, with regard to the impact on the road network, the works in relation to the capping layer and the introduction of a balancing pond and the lining required for it, there will be a number of HGV movements associated with the proposal. However, the increase is not significantly large enough to lead to added traffic congestion or compromise highway safety and convenience. In order to minimise any adverse effects during the importation of soil material and the restoration of the site conditions have been added in relation to dust and mud mitigation ENV 3.2 'Minimising the Impact of Development'

Other points:

The applicants are currently required to complete the restoration works by June 2010. However, the works to improve the capping of the site have been required by the EA which would include a period for the monitoring of the capping layer and water quality before the remaining planting commences. It is considered that this is reasonable and therefore a condition will be added to ensure that the final planting on top of the completed capping is undertaken by June 2014.

Conclusion

The proposed scheme would improve the restoration of the landfill site and subsequent formation of landscaped green space would have a positive impact on the surrounding environment. The proposal would therefore comply with the above UDP policies and is in line with Planning Policy Statement 1 'Delivering Sustainable Development', PPS9 'Biodiversity and Geological Conservation' and PPS10 Planning for Sustainable Waste Management'. The application is therefore recommended for approval.

RB2009/0436

Erection of a single storey building to form food store and 5 No. units with variation to condition 19 (delivery hours) imposed by RB2008/1032 to allow deliveries between the hours of 0730-2200 hours Monday to Saturday and 0830-2200 hours Sundays and Bank Holidays at land at Manvers Way, Manvers for Aldi Stores Ltd.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

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

- a) Development Plan

- (i) RSS

Policy SY1 'South Yorkshire sub area

Policy T1 'Personal Travel Reduction and Modal Shift'

- (ii) Local Planning Policy - UDP

EC1 'Existing Industrial and Business Areas'

EC1.1 'Safeguarding Existing Industrial and Business Areas'

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

ENV3.1 'Development and the Environment'

ENV3.2 'Minimising the Impact of Development'

RET6 'Local Shopping Provision'

T6 'Location and Layout of Development'

MU3 'Manvers Lakeside'

- b) Other relevant material planning considerations

PPS1 'Delivering Sustainable Development'

PPS6 'Town Centres'

PPG13 'Transport'

2. For the following reasons:

On the basis that (i) delivery vehicles will access the site via an access road between the retail units and adjacent hotel, avoiding directly passing the residential units to the east; (ii) the delivery area is located on the west facing elevation (away from neighbouring residential units); and (iii) that the wider area is a mixed use development including commercial and retail premises as well as residential, leisure and industrial uses it is not considered that the

proposed delivery hours would result in a materially detrimental impact upon residential amenity, sufficient to warrant a refusal of planning permission.

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

Conditions Imposed:

01

[PC97] The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority. (received 26 June 2008)

02

[PC17*] Before the development is brought into use the sight lines indicated on the attached plan shall be rendered effective by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

03

[PC24] Before the development is brought into use, that part of the site to be used by vehicles shall be properly drained and constructed in concrete, tarmacadam, block paving or other such material as may be agreed by the Local Planning Authority and shall thereafter be maintained in a sound condition.

04

[PC27*] Before the development is brought into use the car parking area shown on the submitted plan shall be provided, marked out and thereafter maintained for car parking.

05

[PC95] Before the proposed development is brought into use, a Travel Plan shall have been submitted to and approved by the Local Planning Authority. The plan shall include clear and unambiguous objectives, modal split targets together with a programme of implementation, monitoring, validation and regular review and improvement. The Local Planning Authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan following submission of progress performance reports as time tabled in the monitoring programme. For further information please contact the Transportation Unit (01709) 822186.

06

The net retail floor space of the proposed neighbourhood centre shall not exceed 725sqm for comparison goods (A1) and the total net (Use Class A1) retail floor space shall not exceed 1,208 sqm.

07

The total Class A5 (hot food takeaway) floorspace shall not exceed 100sqm (gross).

08

Notwithstanding Conditions 6 and 7, a maximum of 3 of the units approved under this permission will be used within the following Use Classes A2, A3, A5 and D1 only and not for any other uses within the Use Classes Order (as Amended) 2005.

09

No development shall take place on a particular phase until samples of the materials to be used in the construction of the external surfaces of that particular phase of the development, hereby permitted, have been submitted to, and approved in writing by, the Local Planning Authority and the development shall be carried out in accordance with the approved details.

10

All cooking fumes shall be exhausted from the buildings (within Use Classes A3 and A5) via a suitable extraction and/or filtration system. This shall include discharges at a point not less than one metre above the highest point of the ridge of the building or any such position as may be agreed in writing by the Local Planning Authority prior to the commencement of the development. The extraction/filtration system shall be maintained and operated in accordance with the manufacturer's specifications, details of which shall be submitted to, and approved by, the Local Planning Authority prior to installation and it shall thereafter be operated effectively during cooking. All systems shall take into account the document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' published by DEFRA January 2005.

11

The use of the neighbourhood centre, hereby permitted, shall not be commenced until a litter bin has been provided on the forecourt to/within the said building for use by the customers of the said premises.

12

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

13

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

14

Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no building shall be occupied or brought into use prior to completion of that approved foul drainage works.

15

No development shall take place until full details of surface water discharges (including rates and volumes of discharge) into watercourses has been submitted to and approved in writing by the Local Planning Authority.

16

[PC73*] The use hereby permitted shall only be open to customers between the hours of 08.00 to 23.00 hours Mondays to Saturdays and 10.00 to 22.00 on Sundays.

17

[MC15] Effective steps shall be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

18

[MC45] At all times during the carrying out of operations authorised or required under this permission, best practicable means shall be employed to minimise dust. Such

measures may include water bowzers, 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.

19

Delivery vehicles shall only enter or leave the site between the hours of 07.30 and 22.00 hours Monday to Saturday and 08.30 -22.00 hours on Sundays or Bank Holidays.

20

Prior to the occupation of the buildings hereby approved, full details of proposed CCTV systems shall be submitted to and approved in writing by the Local Planning Authority.

21

Prior to the substantial completion of the development, a traffic control barrier shall be installed at the entrance to the car park in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The barrier shall be closed and used to prevent entry to the car park during times when the proposed units are closed.

22

[PC38C]

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

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

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice within a timescale agreed, in writing, by the Local Planning Authority.

23

[PC38D]

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.

24

[PC44*] No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the occupation of any of the buildings hereby approved.

Reasons for Conditions:

01

[PR97] To ensure that the development is carried out in accordance with the approved/amended plans.

02

[PR17] To provide and maintain adequate visibility in the interests of road safety.

03

[PR24A] 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 road safety.

04

[PR27] To ensure the provision of satisfactory garage/parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

05

[PR95] In order to promote sustainable transport choices.

06

In order to ensure that the retail element of the proposal is not expanded and remains as a local shopping facility.

07

In order to ensure that all of the units are not operated as hot food takeaways and ensure a range of uses in order to ensure a local shopping facility.

08

To ensure a mix of uses within the local shopping facility.

09

[PR52] To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

10

[PR56] So as to ensure correct dispersion of cooking odours to avoid disamenity to the locality and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

11

[PR57] In the interests of visual amenity and to reduce the problem of litter and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

12

To ensure that the development can be properly drained.

13

In the interest of satisfactory and sustainable drainage.

14

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

15

In order to ensure that acceptable discharge rates to watercourses can be achieved.
16

[PR73] In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.
17

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity.
18

In the interest of local amenity.
19

In the interest of the residential amenity of nearby residential properties.
20

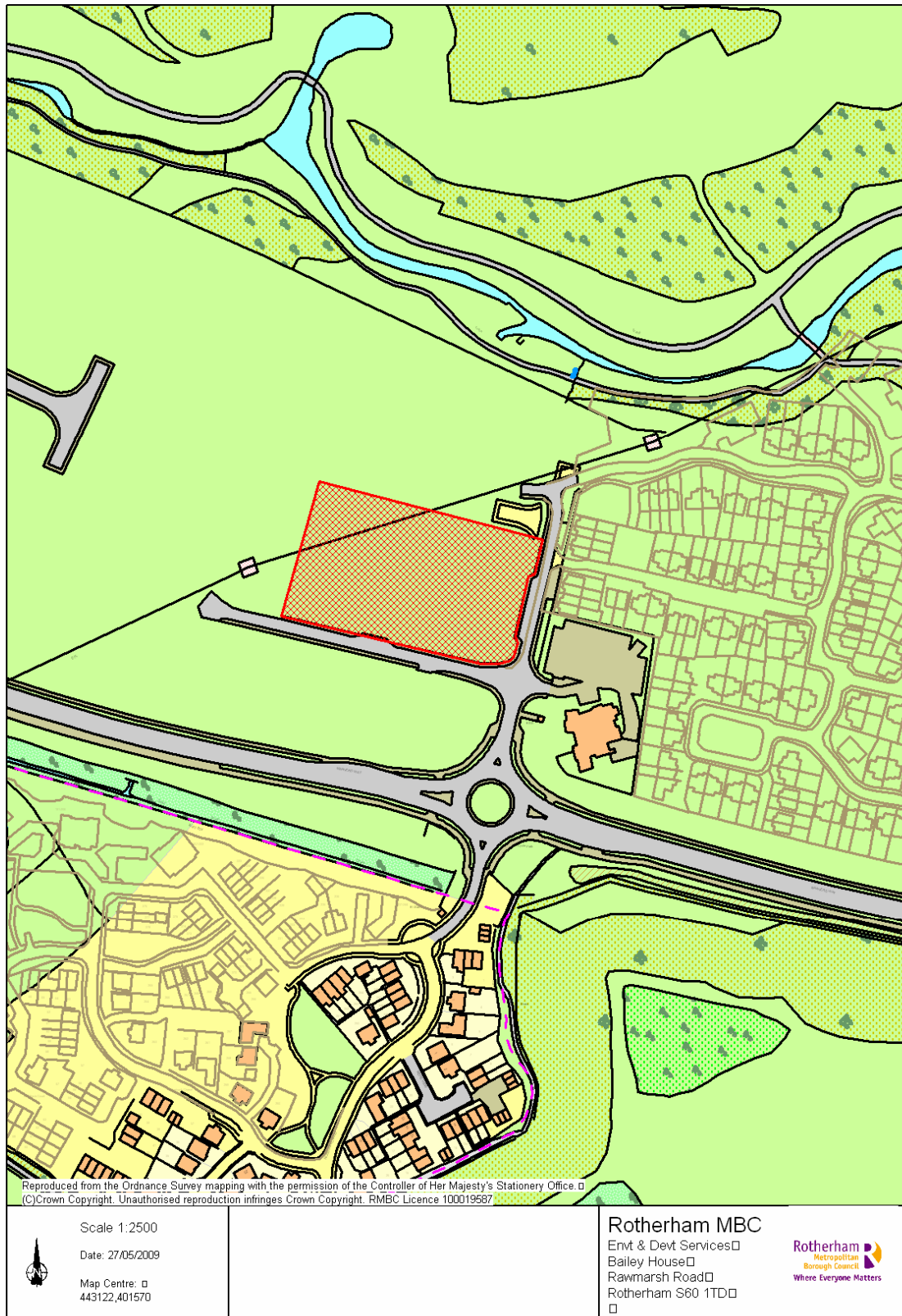
In the interest of public safety.
21

To prevent unauthorised use of the car park.
22

[PR38C] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
23

[PR38D] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
24

[PR44] In the interests of the visual amenity of the area and in accordance with the UDP.



Background

RB2004/2304 – Formation of golf course with associated driving range, clubhouse and green keepers store, erection of boat house, residential development (comprising 10 apartment blocks, 202 dwelling houses and a retirement village), public house/restaurant, extreme sports centre, bowling alley, bingo hall, hotel, health and fitness centre, nursery, neighbourhood centre including a medical centre, car showroom, petrol station, general industrial units and landscaping – Granted conditionally March 2006.

A neighbourhood centre was included within this permission and condition 21 specified that:

“The net retail floor space of the proposed neighbourhood centre shall not exceed 725sqm for comparison goods (A1). The total net floor space shall not exceed 1,208 sqm.”

Members will also recall a recent planning application (RB2008/524) relating to the adjacent site which was granted and proposed the following development:

“Outline application for residential apartments and houses together with A1 retail, A3 food and drink, D1 medical centre, D2 leisure and associated play spaces and ancillary infrastructure.”

Members will further recall application RB2008/1032 which was approved by members on 18 September 2009 for the following development:

“Erection of a single storey building to form a foodstore and 5no. retail units.”

Environmental Impact Assessment

The application site, being approximately 0.85 hectares, falls within the description contained in paragraph 10 (b) of Schedule 2 to the 1999 Regulations on Environmental Impact Assessments and meets the criteria set out in column 2 of the table of the schedule.

However, having taken into account the criteria set out in Schedule 3 to the 1999 Regulations on Environmental Impact Assessments, it is considered that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly, the development is not EIA development as defined in the 1999 Regulations.

Site Description & Location

The application site is located within the wider reclaimed Manvers Way development site, which was granted planning permission for mixed use development in March 2006. The site lies to the north of Wath town centre. Development of the overall site is now underway with developments such as the public house and golf course complete or nearing completion. Development is also currently under way on the residential developments which surround the site (subject to separate planning consents) to the south and south east.

The specific site covers an area of 0.85ha which is regular in shape and cleared ready for future development. The site is located off Manvers Way, opposite the public house and directly adjacent to the site of the proposed hotel. The site is accessed via the internal roads which are constructed and provide access to the adjacent development sites.

Proposal

This application seeks to vary Condition No. 19 imposed by RB2008/1032 which states:

“Delivery vehicles shall only enter or leave the site between the hours of 08.00 and 18.00 hours Monday to Saturday and no deliveries on Sundays or Bank Holidays.”

The application original sought the following amended delivery hours:

*07.00 to 22.00 Mondays to Saturdays; and
08.00 to 22.00 Sundays and Bank Holidays.*

However, following further discussions with the Council’s Environmental Health Section, the proposed delivery hours have been amended as follows:

*07.30 to 22.00 hours Mondays to Saturdays; and
08.30 to 22.00 hours Sundays and Bank Holidays.*

The agent for the planning application has submitted a supporting letter which states that:

“The Council’s committee report highlights that no deliveries are permitted on Sundays and Bank Holidays in the interest of the residential amenity of nearby residential properties. However, Aldi is within the neighbourhood centre, surrounded by other commercial properties. Furthermore, the neighbourhood centre is located in a wider area which is commercial in nature and there are no residential properties in the vicinity...”

Development Plan Allocation and Policy

a) Development Plan

(i) RSS

*Policy SY1 ‘South Yorkshire sub area
Policy T1 ‘Personal Travel Reduction and Modal Shift’*

(ii) Local Planning Policy - UDP

*EC1 ‘Existing Industrial and Business Areas’
EC1.1 ‘Safeguarding Existing Industrial and Business Areas’
EC3.1 ‘Land identified for Industrial and Business Use’*

ENV3.1 'Development and the Environment'
ENV3.2 'Minimising the Impact of Development'
RET6 'Local Shopping Provision'
T6 'Location and Layout of Development'
MU3 'Manvers Lakeside'

b) Other relevant material planning considerations

PPS1 'Delivering Sustainable Development'
PPS6 'Town Centres'
PPG13 'Transport'

Publicity

The application was publicised by way of a Press and Site Notice posted on 23 April 2009. No representations have been received.

Consultations

Transportation Unit has no objections.

Environmental Health originally raised concerns about the proposed opening hours and the impact upon residential properties on the adjacent residential development site. Environmental Health considers that the amended delivery hours to be acceptable.

Appraisal

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 principle of the development of a food store and 5no. retail units has been established by permission RB2008/1032 and therefore the only issue to be considered as part of this application is whether the proposed amended delivery hours to the retail units are acceptable. The main consideration in the determination of this application is the disturbance to residential properties and surrounding uses.

The agent has submitted a supporting letter which states that:

"...Aldi is within the neighbourhood centre, surrounded by other commercial properties... and there are no residential properties in the vicinity... Aldi operates a closely managed servicing arrangement for each store, with one daily articulated vehicle at each store to deliver a load of mixed goods. During the unloading the back of the vehicle is at floor level enabling the driver to unload goods quickly into the dedicated storage area. The servicing period lasts 20-30 minutes and is one person operation. Further smaller deliveries for milk and bread may also occur."

It should be noted that residential dwellings are currently being constructed to the east of the application site at a distance of approximately 17 metres from the front

elevations of the approved retail units. In addition, a hotel development is currently being constructed immediately to the south of the application site. Notwithstanding, the fact that there are residential properties in the vicinity of the application site, the area is clearly a mixed use site with uses including a public house and commercial uses within the surrounding area.

The approved site layout plan shows that deliveries to the site will be achieved via a service road between the retail units and hotel and the delivery yard is on the west facing elevation and delivery vehicles will therefore not have to directly pass the residential dwellings facing the retail units. Furthermore, the supporting information submitted by the agent provides additional comfort in that Aldi operates closely managed servicing arrangement with only one daily articulated vehicle and further smaller milk and bread deliveries.

Additionally it is detailed that the store will have a delivery ramp, sheltered canopy and dock leveller which means that products can be unloaded without an external activity such as forklift trucks, scissor lifts or cages.

It is acknowledged that the agent has amended the opening hours to take account of previous concerns of the Council's Environmental Health Section and that the additional hours over and above those previously imposed on RB2008/1032 amount to 30 minutes on a morning (Monday to Saturday) and an extension from 18.00 to 22.00 hours (Monday to Saturday). In addition, the Condition No. 19 prohibited deliveries on Sundays and Bank Holidays but operationally, this would result in customers being unable to purchase fresh produce on Sundays and Bank Holidays.

Conclusion

On the basis that (i) delivery vehicles will access the site via an access road between the retail units and adjacent hotel, avoiding directly passing the residential units to the east; (ii) the delivery area is located on the west facing elevation (away from neighbouring residential units); and (iii) that the wider area is a mixed use development including commercial and retail premises as well as residential, leisure and industrial uses it is not considered that the proposed delivery hours would result in a materially detrimental impact upon residential amenity, sufficient to warrant a refusal of planning permission.

RB2009/0456

Change of use to aesthetics and cosmetics teaching and treatment (Use Class D1) at Unit B12 Taylors Court, Parkgate for Evemia Ltd.

RECOMMENDATION: REFUSE

Reason for Refusal:

01

The site is within an area allocated in the UDP for industrial/business uses. The proposed cosmetics training and treatment centre is not an industrial/business use and is not ancillary to the primary main industrial/business uses of the area, contrary to UDP Policies EC3.1 'Industrial and Business Uses' and EC3.3 'Alternative Uses Within Industrial and Business Areas'. Insufficient information has been submitted to demonstrate a lack of alternative suitable sites or justify development that is contrary to the above Policy.



Background

Taylor's Court was built under a 1980's Enterprise Zone scheme. The only planning application since its construction, relating specifically to Unit B12, is an Advertisement Consent application approved in 1998 (Ref: RB1998/0017).

Site Description

The site comprises a unit at a two-storey "courtyard" office development built under the 1980's Enterprise Zone Scheme and includes a number of units facing a parking area on three sides. The unit lies at the end of a row of units at the south-east corner of the courtyard. The front elevation faces the parking courtyard to the west. The rear elevation faces Rotherham Road to the east. Part of the parking area lies to the south and the adjoining units lie to the north.

Proposals

The proposal is for the change of use of a vacant office unit into an aesthetics and cosmetics training and treatment centre. According to the applicant, the unit was previously used by an accountancy firm but is now currently vacant. There are no external alterations proposed for the unit proposed. The floorspace would be split between teaching and treatment. Teaching hours would be 10am-4pm and there would be a maximum of six visitors present for the training. The hours for treatment would be 10am-6pm and there would be a maximum of two visitors present for treatment. There would be a maximum of four staff at any one time although the applicants propose to eventually increase this to 11 in the future.

Development Plan Allocation and Policy

01 UDP Policies

The site is allocated for Industry and Business purposes in the UDP and the following policies are relevant:

EC3.1 'Land Identified for Industrial and Business Uses' aims to restrict the uses in these areas to B1 (Office/Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) in the interests of providing land for economic and employment purposes.

EC3.3 'Other Development within Industrial and Business Areas' allows alternative uses in these areas subject to, amongst other things, the impact on the surrounding environment and adjacent uses, and the use being either ancillary to the primary use of the area or which would provide significant employment (and if it meets these criteria it must also be shown that there are no suitable alternative locations, no land-use conflicts arise and the range and quality of employment opportunities in the area has been increased).

T6 'Location and Layout of Development' aims to locate development close to public transport, discourage development which causes traffic congestion and promote safe

and convenient access for pedestrians, cyclists and people with disabilities, as well as ensuring highway safety for car and public transport users.

Other Material Considerations:

Planning Policy Guidance Note 13 (PPG13) 'Transport' aims to ensure that development and uses of land do not increase traffic congestion, do not affect highway safety and convenience and are accessible to public transport.

Publicity

The proposal was advertised in the press and a site notice was erected as the proposal was deemed to not be in accordance with the UDP. Letters were also sent out to adjacent occupiers. No responses have been received.

Consultations

Council Transportation Unit: No objection as there is sufficient car parking and the site is adjacent to a Quality Bus Corridor.

Appraisal

The main considerations in the determination of this application are as follows:

- The principle of the proposal in view of planning policies which aim to ensure that land is retained for business and industrial purposes*
- Impact on traffic generation and highway safety.*

The principle of development:

Taylor's Court comprises of office units that were built under the Rotherham Enterprise Zone scheme in the early 1980s. The wider area is also allocated for Industrial and Business uses and Policy EC3.1 aims to retain sites within the land allocation of B1 (Office and Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) uses in the interest of encouraging economic development and employment. The proposed treatment and teaching centre is not deemed to fall under any of the above uses, and therefore does not comply with the policy.

Policy EC3.3 does allow alternative uses in Industrial and Business Areas if they comply with the criteria attached to the policy as outlined in the 'Development Plan' section of the report. In this respect, the proposed use would have a minimal impact on the surrounding environment. However, it would not be ancillary to the main business/industrial use of the area and would not create significant employment. The proposed use would therefore also not comply with this policy.

In terms of supporting information from the applicant, it is claimed that the vacant unit has been marketed but there has been very few enquiries from potential occupiers. However, no detailed information has been submitted to demonstrate this. Whilst this claim is accepted by the Council, it is not clear how long the unit has been vacant or that this is a circumstance that would outweigh the above policies. Available land

for more intensive employment uses connected to industry and business would still need to be made available for future needs in the interests of the local economy and employment provision. The applicant has not provided information of any alternative premises which have been investigated in areas where cosmetic training and treatment centre could be acceptable under UDP policies, such as town centres or areas allocated as 'Mixed Use' areas. Overall, it is considered that the proposal and the supporting application information would not provide any benefits which would outweigh the importance of UDP policies EC3.1 and EC3.3 in encouraging B1, B2 and B8 uses and that the unit should therefore be retained for these more intensive employment uses.

Impact on traffic and highway safety:

It is not considered that the proposed use would lead to significant traffic generation and the site also has good access to public transport. The available parking provision within the courtyard is sufficient to accommodate the number of staff and visitors that the treatment/training centre would be expected to generate and is therefore acceptable in terms of highway safety and convenience. The proposal would comply with UDP Policy T6 'Location and Layout of Development' and PPG13 'Transport'.

Conclusion

The proposed cosmetic treatment and training centre is contrary to UDP Policies EC3.1 and EC3.3 which look to ensure that Industrial and Business Areas are retained for B1 (Office and Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) uses, or other significant employment uses or uses ancillary to industry and business, in the interests of future local economic development and employment provision. The applicant has not demonstrated that there are any other circumstances to outweigh the operation of those policies. The application is therefore recommended for refusal.

RB2009/0457

Retrospective application for formation of spoil heap (Application under Regulations 3 & 9A of the Town and Country Planning General Regulation 1992) at Canklow Woods Primary School, Wood Lane, Canklow for RMBC Education.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

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

UDP Policies

ENV1 'Green Belt' which states that development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area.

CR2.2 'Safeguarding Recreation Areas' which states that land presently used or last used for sports grounds, playing fields or allotment gardens, will be retained except where it can be demonstrated that the land is surplus to requirements, alternative provision of equivalent community benefit is made and the land has no other Urban Greenspace value.

- b) Other relevant material planning considerations
PPG2 'Green Belts'
PPG17 'Planning for Open Space, Sport and Recreation'

2. For the following reasons:

The spoil mound was formed during the construction of the new School within the site of the existing School and is a temporary measure whilst the existing School is demolished and the site of the existing School is redeveloped. The mound will be removed from its current site and the inert material will be used as part of the landscaping/remodelling and car park proposed on the site of the existing School once demolished, or removed from the overall site. It is considered that a temporary permission would be acceptable and would allow the land to be reinstated and subsequently used for potential playing pitch purposes.

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

Conditions Imposed:

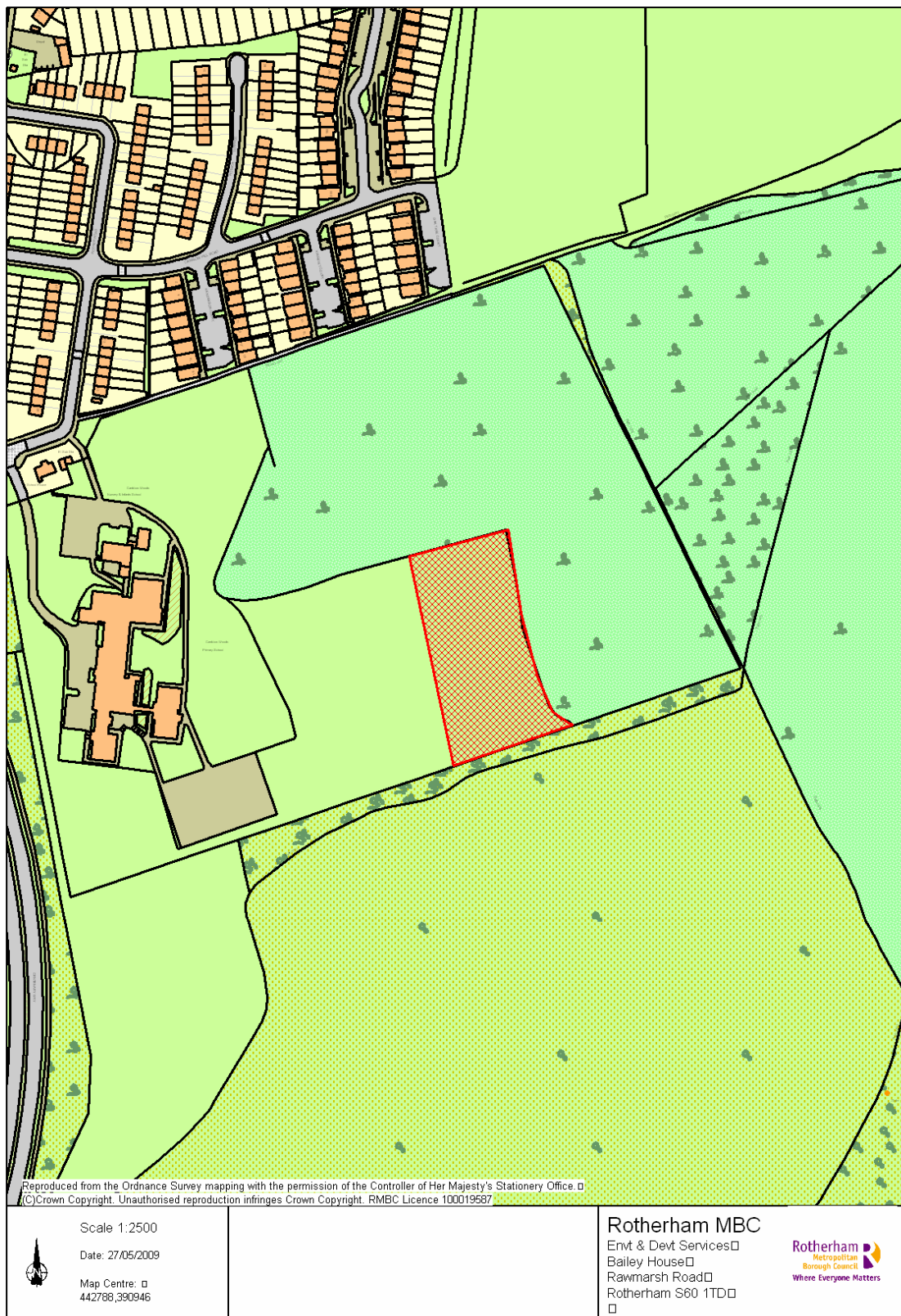
01

The permission shall be valid for 2 years and within that period the spoil mound hereby permitted shall be removed from the site. Within 3 months of removal (or in the first planting season following the removal of the spoil mound) the playing field land shall be reinstated to a playing field to a quality at least equivalent (or better) than the previous quality (or a condition fit for use as a playing field or in accordance with 'Natural Turf for Sport' Sport England 2000).

Reasons for Conditions:

01

To ensure the site is restored to a condition fit for purpose and to accord with UDP Policy CR2.2 'Safeguarding Recreation Areas'.



Background

The mound was formed during the construction of the new school at Canklow Woods Primary school.

Planning permission for the new school within the curtilage of the existing school at Canklow Woods Primary was granted in 2008 (RB2008/0051). The new school is nearing completion and once complete the existing school will be demolished and a replacement car park, which has recently been approved (RB2009/0293) will be constructed on the site along with appropriate landscaping.

Site Description & Location

Canklow Woods primary school is located to the west of Centenary Way; it is accessed off Wood Lane which also serves a residential estate. The site of the school is approximately 8 hectares; the original school building is sited to the east of the site, with car parking, play grounds and school fields. With the exception of several properties to the north (adjacent to the sites entrance) the site is bordered by woodland/open recreation areas. The new school is located to the north-east of the original school.

The spoil heap is located adjacent the eastern boundary of the overall Canklow Woods Primary School site and forms part of the overall playing field facility at the School.

Proposal

This is a retrospective application for the formation of the spoil mound. It is located along the eastern boundary of the overall site and is approximately 90 metres long and 25 metres wide, with a varying height not exceeding 4 metres. All the contents of the mound were moved from the site of the new school during excavation and construction works.

A playing pitch has been re-located clear of the mound.

Development Plan Allocation and Policy

The site of spoil mound itself is located within the Green Belt as identified in the Rotherham Unitary Development Plan, while the school buildings are allocated as Community Facilities. Policies and guidance which relate to this proposal include ENV1 'Green Belt'.

UDP Policy ENV1 'Green Belt'

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

- (i) *agriculture and forestry (unless permitted development rights have been withdrawn),*
- (ii) *essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it,*
- (iii) *limited extension, alteration or replacement of existing dwellings, and*
- (iv) *limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing)'.*

UDP Policy CR2.2 'Safeguarding Recreation Areas' states:-

'Land presently used or last used for sports grounds, playing fields or allotment gardens, will be retained for this purpose during the plan period except where:

- (i) it can be demonstrated that the land is surplus to the requirements of the local community, or*
- (ii) alternative provision of equivalent community benefit is made, and*
- (iii) the land has no other Urban Greenspace value'.*

Other Material Considerations

Planning Policy Guidance Note 2: Green Belts (PPG2) states that 'inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning applications or appeal concerning such development'.

PPG17 Planning of Open Space, Sport and Recreation notes at paragraph 15 that:

'In advance of an assessment of need, Local Authorities should give very careful consideration to any planning applications involving development on playing fields. Where a robust assessment of need in accordance with this guidance has not been undertaken, planning permission for such developments should not be allowed unless:

- (i) the proposed development is ancillary to the use of the site as a playing field (e.g. new changing rooms) and does not adversely affect the quantity or quality of pitches and their use;*
- (ii) the proposed development only affects land which is incapable of forming a playing pitch (or part of one);*
- (iii) the playing fields that would be lost as a result of the proposed development would be replaced by a playing field or fields of equivalent or better quantity and quality and in a suitable location; or*

- (iv) *the proposed development is for an outdoor or indoor sports facility of sufficient benefit to the development of sport to outweigh the loss of the playing field'.*

Publicity

The application has been advertised by way of a site notice on a lamppost on Wood Lane in front of the School grounds, a press notice in the local paper and all neighbouring properties have been notified in writing. No comments have been received.

Consultations

Transportation Unit have no objections.

Environmental Health have stated that there are domestic properties in the vicinity and during summer months wind could whip any loose materials on the heap. They have recommended that if planning permission is granted the heap should be covered to prevent wind whipping of potentially dusty soil in the summer months.

Sport England originally objected to the proposal as it would result in the loss of part of the overall area used as sports pitches for Canklow Woods Primary School. However, the objection has been removed on the basis that the mound will only be in situ for a temporary period, and that at the end of that period the material would be removed and the land re-instated so that it could once again potentially be used for playing pitch provision.

Natural England has no objections.

Appraisal

The site is within the Green Belt and the main consideration in this instance is the principle of the development and if inappropriate, whether any very special circumstances have been demonstrated to justify the development.

The spoil mound was formed during the construction of the new school and is a temporary measure until the original school is demolished and redeveloped as a replacement car park and landscaped area. It is not considered that the formation of the mound is appropriate development in the Green Belt and as such, very special circumstances have to be demonstrated to justify the development. However, as the mound will be removed from its current site and the material used in the formation of the recently approved replacement car park (RB2009/0293) and new landscaping area on the site of the original school, or even removed from the overall site, this would overcome the fact that the development is itself inappropriate.

It is considered that it would be unreasonable to insist that the material is removed immediately as it could be re-used for the construction of the replacement car park or as part of the landscaping when the original school is demolished. This would be a more sustainable option than removing from the site and transporting elsewhere. It is considered that a temporary permission would be acceptable and would allow the

land to be re-instated and subsequently used for potential playing pitch purposes. As such the proposals would comply with UDP Policy CR2.2 'Safeguarding Recreation Areas' and PPG17.

Conclusion

The formation of the mound represents inappropriate development in the Green Belt and no very special circumstances have been demonstrated to justify its retention on permanent basis. However, a temporary permission will allow the material to potentially be used as part of the replacement car park and landscaping scheme on the site of the original school once the original school has been demolished. In view of the above it is recommended that planning permission be granted for a temporary 2 year period.

RB2009/0510

Two storey side & single storey rear extensions and porch to front at 62 Boundary Green, Rawmarsh for Mr. & Mrs. West.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS TO GRANT PLANNING PERMISSION

1. Having regard to the Development Plan and all other relevant material considerations as set out below:
 - a) Development Plan
 - (i) Local Planning Policy (Quote relevant UDP policy)

Policy ENV3.1 Development and the Environment indicates that development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, and scale.

The Supplementary Housing Guidance Housing Guidance 1: householder development 1 is also relevant. This guidance indicates that two storey side extensions could create a terraced effect between two properties, drastically changing their appearance. Ideally, this should be avoided altogether, by leaving 1 metre alongside the extension. Where this cannot be done, a more satisfactory appearance can be gained by setting back the first floor of the extension by 0.5 metre or more from the front of the house. This will give relief to the elevation, and will minimise any terracing effect.

2. For the following reasons:

The two storey side extension is considered to be of an acceptable design and appearance on the street scene. The positioning of the property in the centre of the

plot with the gap to the south is considered to mitigate any future terracing impact. The front porch is considered to be of an acceptable design and scale and the rear extension could be constructed under permitted development. Two off-road spaces are to be provided and are not considered to have a detrimental impact on highway safety.

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

Conditions Imposed:

01

[PC 24] 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.

02

[PC51] The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

03

The window on the southern elevation of the two-storey side extension facing No. 60 Boundary Green shall be glazed with obscure glass and shall not at any time be glazed with clear glass without prior written agreement of the Local Planning Authority

Reasons for Conditions:

01

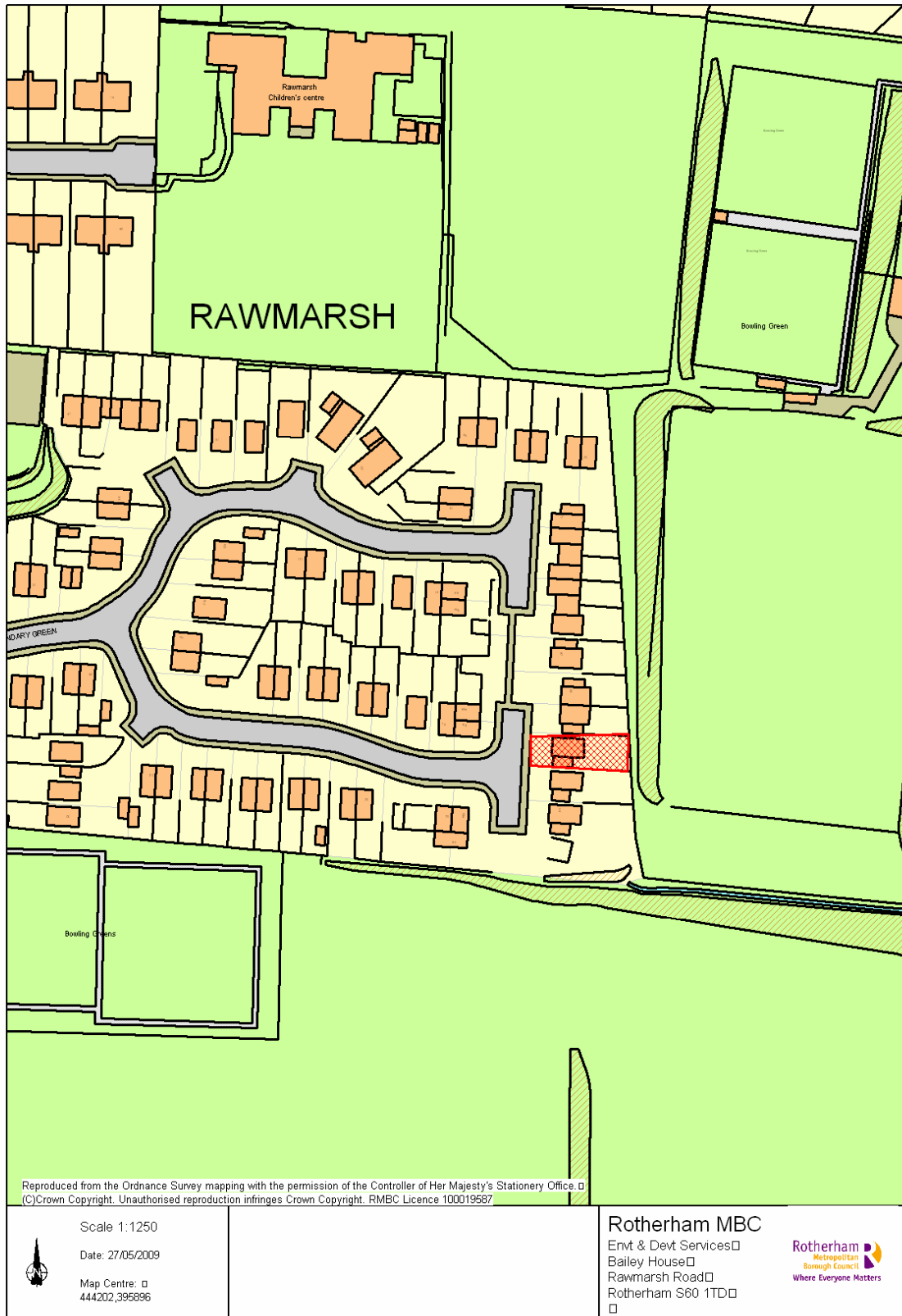
[PR24A] To ensure that surface water can adequately be drained and to encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of the adequate drainage of the site and road safety.

02

[PR51] In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

03

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



Background

There have been no previous extensions on this property since the housing estate was constructed in the early 1980s.

The application has been submitted from an employee within the planning department and requires the Planning Board to determine the application in the interests of probity.

Development Plan Allocation and Policies

The site is allocated for residential purposes in the Development Plan.

Policy ENV3.1 Development and the Environment indicates that development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, and scale.

The Supplementary Housing Guidance Housing Guidance 1: householder development 1 is also relevant. This guidance indicates that two storey side extensions could create a terraced effect between two properties, drastically changing their appearance. Ideally, this should be avoided altogether, by leaving 1 metre alongside the extension. Where this cannot be done, a more satisfactory appearance can be gained by setting back the first floor of the extension by 0.5 metre or more from the front of the house. This will give relief to the elevation, and will minimise any terracing effect.

Site Description

The site comprises of a detached property that is located within a residential estate. The surrounding properties are predominantly detached and semi-detached of a similar design and some of these properties have had two storey side extensions constructed. The design of these properties consists of a garage on the southern elevation and a gated path that is approximately 1 metre wide that allows access to the rear of the property. The rear garden measures approximately 11 meters in length and is enclosed by a boundary fence that is approximately 1.8 metres high on all sides.

Proposals

The application is for a two storey side extension that would replicate the existing gable-roof and would be flush with the front elevation of the property. There would be a bathroom window at first floor level.

A second proposal is to erect a front porch that has a floor area of approximately 3 square metres and is 3.2 metres in height to the apex.

A third proposal is to erect a single storey rear extension that would project approximately 2.4 metres from the rear building line with a maximum height of 3

metres. This element of the proposal could be constructed as permitted development.

The materials proposed for the extension are to match the host property.

Publicity

All relevant neighbours were informed by letter on 1 May 2009. No representations have been received.

Consultations

Transportation Unit – no objections

Appraisal

The principle of a residential extension is considered to be acceptable on a residential property. The main factors in the determination of the application are as follows:

- Visual impact on the street scene including the possibility of terracing.*
- Impact on the residential amenity of neighbouring properties.*
- Highway safety impact.*

Impact on street scene

The proposed extension is considered to be of a scale and design that is in keeping with the existing and surrounding properties. Whilst the proposed extension has not been set back from the front of the property, in this instance it is considered that the design of these houses would accommodate an extension that has not been set back from the front elevation due to the gable-style design. In terms of a future terracing effect, it is considered that the presence of a 0.75m side path on the northern elevation of these properties would make any future two storey extension on this elevation impractical to implement. Accordingly it is considered that the existing gap between nos. 62 and 60 is likely to be maintained and this would minimise any future terracing effect. Accordingly it is considered that the proposal would have an overall acceptable visual impact on the street scene and is in accordance with the advice given in UDP Policy ENV3.1 'Development and the Environment' and Supplementary Housing Guidance Housing Guidance 1: householder development 1.

The front porch is considered to be of an acceptable design and scale and is not considered to have a detrimental impact on the street scene.

Impact on the residential amenity of neighbouring properties.

The proposed side extension would not have any habitable windows on the southern elevation and it is not considered that there would be any loss of privacy. The single storey rear extension would project 2.4 metres and is set in from the boundary. Bearing in mind that the neighbouring property at no. 64 is set back from the site and this element of the proposal could be constructed under permitted development, it is not considered that this would have any significant detrimental impact on the neighbouring property.

Highway safety impact.

The Transportation Unit have indicated that there are no objections from a highway safety aspect. Two off road parking spaces are to be created with a grassed area to be retained in front of the house.

Summary

The two storey side extension is considered to be of an acceptable design and appearance on the street scene. The positioning of the property in the centre of the plot with the gap to the south is considered to mitigate any future terracing impact. The front porch is considered to be of an acceptable design and scale and the rear extension could be constructed under permitted development. Two off-road spaces are to be provided and are not considered to have a detrimental impact on highway safety.

Accordingly, the application is recommended for approval subject to the safeguard of the above conditions.

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

11TH JUNE 2009

Report of the Director of Planning and Regeneration Service

ITEM NO. SUBJECT

- | | |
|----------|---|
| 1 | Ref: RB2008/1823 |
| Page 129 | Retrospective application for front extension at 19 Worry Goose Lane, Whiston for Mr. Sabir. |
| 2 | Proposed Tree Preservation Order No 1 2009 – Sycamore and Silver Birch trees at 146 Morthen Road, Wickersley. |
| Page 138 | |
| 3 | Development Control Performance Report. |
| Page 141 | |
| 4 | Retrospective Planning Applications. |
| Page 147 | |
| 5 | Ref: RB2006/1307
Appeal Decision – Allowed |
| Page 149 | Appeal against refusal of planning permission for the erection of 6 six metre high lighting columns at Simms. |
| 6 | Ref: RB2008/1125 |
| Page 151 | Appeal Decision – Appeal Dismissed |
| | Appeal against refusal of planning permission for the erection of a two-storey side extension at 3 Tasman Grove, Maltby for Mr. Wright. |
| 7 | Ref: RB2008/1532 |
| Page 152 | Appeal Decision – Appeal Dismissed. |
| | Appeal against refusal of planning permission for the erection of a two-storey building comprising of 6 flats with associated parking and bin store at land at rear of 293 Kimberworth Road, Kimberworth for Robinson Court Properties Ltd. |

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY
BOARD

PLANNING AND REGENERATION SERVICE REPORT TO
COMMITTEE

11TH JUNE, 2009

ITEM 1

Ref: RB2008/1823

Retrospective application for front extension at 19 Worry Goose Lane, Whiston for Sabir.

Recommendation:

That the retrospective application hereby submitted for the front extension at 19 Worry Goose Lane be refused, and

That enforcement action be authorised under 172 of the Town and Country Planning Act 1990, on Mr Sabir to ensure that:

- **the front extension that has been constructed contrary to the plans approved under RB2008/0594 be removed from the property and re-built in accordance with the plans approved under RB2008/0594;**
- **the canopy extension to the front of the property be removed;**
- **details of the proposed soakaway or other means of surface water disposal in the constructed hardstanding area or adjacent land shall be submitted to and approved by the Local Planning Authority. Any drainage system shall be constructed in accordance with the approved details.**

With a compliance period of 3 months.

Reasons for refusal

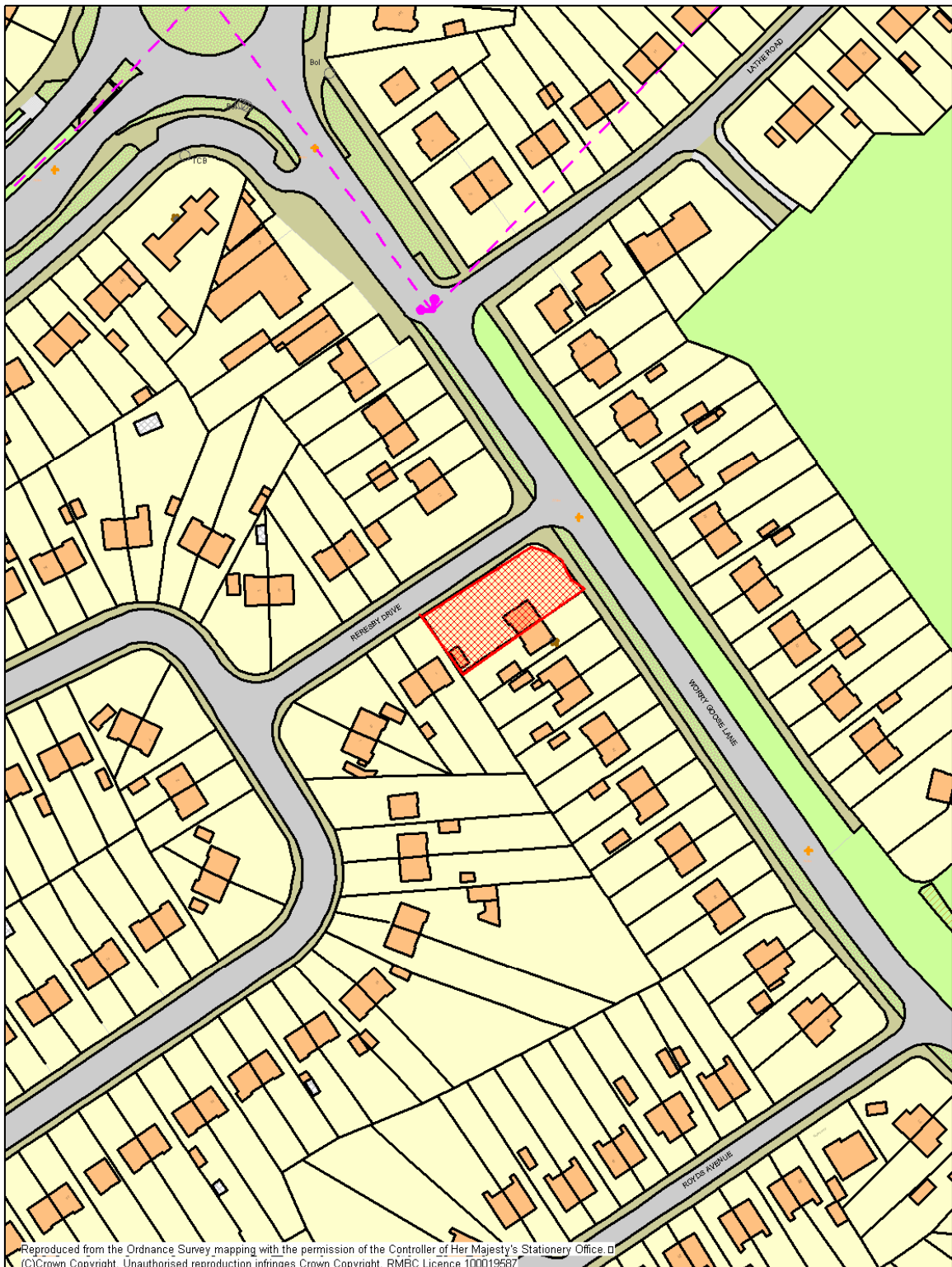
01

The Council considers that the front extension by virtue of its 1.6 metre projection within 2 metres of a habitable room window of another property and 2.5 metres more than 2 metres from a habitable room window would be in direct conflict with the Council's adopted Supplementary Planning Guidance (SPG) 'Housing Guidance 1: Householder development'. SPG 'Housing Guidance 1: Householder development' stipulates that a front extension within 2 metres of a habitable room window of another property should project no more than 1 metre, this is increased to a maximum projection of 2 metres where the extension would be more than 2 metres from a habitable room window.

02

The Council further considers that the front extension by virtue of its size, scale, form, design and siting detracts from the appearance of the house itself and further detracts from the appearance of the house in relation to the streetscene. Accordingly, the

proposal is in direct conflict with the requirements outlined within Policy ENV3.1 'Development and the Environment' of the adopted Unitary Development Plan, which seeks to ensure that all development makes a positive contribution to the environment by achieving an appropriate standard of design having regard to size, scale, form, siting, materials and impact on the surrounding area.



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Report for RB2008/1823

Background

The application property has been the subject of three previous planning applications these are summarised below:

RH1973/8162 – Extension to form kitchen & study – Granted;

RB2006/1676 – Two storey side and rear extension – Granted conditionally at Planning Board, and

RB2008/0594 – Single storey extension & canopy to front and detached double garage to rear – Granted conditionally by Chair and Vice-Chair of Planning Board.

Members will recall that this application was recently deferred for further negotiations between Officers and the applicant.

Amended plans have recently been submitted which show the omission of the canopy extension to the front central section of the extension which has been built without planning permission and the opening in the boundary hedge fronting Worry Goose Lane being blocked off with a close boarded fence so that all vehicular access/egress will be derived from Reresby Drive (as conditioned on the previous application RB2008/0594).

It should also be noted that information has been submitted by the applicant to show that although the hardstanding which has been created is not of a permeable material and any run-off will go into a soakaway to the front of the site which is to be constructed in due course. However, at present due to the lack of a soakaway with the hardstanding it is not permitted development until details of the proposed soakaway have been submitted to and approved by the Local Planning Authority.

The application in light of the amended plans is seeking retrospective consent for the front extension which has been constructed contrary to the plans approved under application RB2008/0594. RB2008/0594 permitted a front extension projecting 1 metre within 2 metres of a habitable room window of another property and 2 metres more than 2 metres from a habitable room window of another property.

Development Plan Allocation and Policies

The application site is situated within an area allocated within the Unitary Development Plan (UDP) for residential.

The proposed development shall be assessed against UDP Policy ENV3.1 'Development and the Environment' and Supplementary Planning Guidance (SPG) 'Housing Guidance 1: Householder development'.

UDP Policy ENV3.1 'Development and the Environment' states that development will be required to make a positive contribution to the environment by achieving, amongst other things, an appropriate relationship to the locality, while consideration should also be given to the impact of development on the amenities of neighbouring properties.

SPG 'Housing Guidance 1: Householder development' for adding a front extension acknowledges that they can form a significant element in the streetscene and that the addition of a front extension can alter the appearance of the dwelling. It further states that it is essential that all such extensions should be modest in scale and designed to reflect the architectural features of the existing house. To minimise the effect on neighbours' houses, and on the general streetscene, the Council will normally apply the following rules:

*any extension which is less than 2 metres from a habitable room window of another house should project by no more than 1 metre, and
any extension which is 2 metres or more from a habitable room window of another house should project by no more than 2 metres.*

Site Description

The application site is located on the western side of a busy thoroughfare in the Whiston District of the Borough to the south of the Town Centre. The site is on the corner of Worrygoose Lane and Reresby Drive and has a vehicular access to the side of the site off Reresby Drive to a recently constructed double garage.

The property is a two-storey semi-detached dwelling that has been extensively extended to the side and rear and also to the front; however the front extension has not been constructed in accordance with the plans approved under RB2008/0594.

A hardstanding area has been constructed to the front site for what appears to be vehicular parking. While an opening has been created in the front boundary of the site fronting Worry Goose Lane for what appears to be a vehicular access.

Proposal

The applicant was originally seeking retrospective permission for a front extension which has not been built in accordance with the plans approved under RB2008/0594, a canopy extension to the front and a vehicular access onto Worry Goose Lane.

The front extension approved under RB2008/0594 projected out 1 metre close to the boundary and ground floor habitable room window of No. 21 Worry Goose Lane and 2 metres in the centre of the front elevation. The extension constructed projects out approximately 1.6 metre close to the boundary with No. 21 Worry Goose Lane and over 3 metres in the centre of the front elevation due to the construction of a canopy extension on the front of the approved porch.

After negotiations with the applicant's agent, amended plans have been submitted omitting the front canopy extension and the vehicular access onto Worry Goose Lane by constructing a close boarded fence blocking it off. Under Planning legislation, reinstating the hedgerow along the front boundary can't be enforced as the removal of a hedgerow does not require planning permission, however enforcement action can be taken under Section 131 of the Highways Act 1980 against any unauthorised work to the highway.

Accordingly, the applicant is now seeking retrospective consent for the single-storey front extension which has been constructed contrary to the plans approved under

RB2008/0594. The front extension projects out 1.6 metres along the section running next to the boundary with the adjoining property and 2.5 metres in the central section and will have a hipped roof.

The hardstanding constructed does not require planning permission.

The applicant has also indicated that they propose to construct a 2 metre high boundary fence/wall along the boundary with No. 21 Worry Goose Lane; however this does not require planning permission.

Publicity

All properties abutting the site or directly opposite the site have been notified of the original plans and the amended plans.

Six letters of representation have been received objecting to the original plans; the issues raised within the letters are detailed below;

- If the applicant puts in a dropped kerb and tarmacs the grass verge to form a new drive, people will park their vehicles on the top of the drive and cause a blind spot for drivers turning left or right from Reresby Drive onto Worry Goose Lane – the proposed access is too close to the junction.*
- The front canopy extends way beyond the building line.*
- There is already a vehicle access off Reresby Drive to a large detached garage that has been recently built and any further access off Worry Goose Lane would have safety implications.*
- The front extension close to the boundary with No. 21 Worry Goose Lane projects 1.6 metre instead of 1 metre which was originally approved. The extension overshadows No. 21 and is oversized.*
- The whole development has got out of hand.*
- The front porch should was approved at 2 metres but has been built to almost 3 metres, with UPVC cladding to the apex which is not in keeping with the 1935 semi. In addition the pillar used on the canopy does not match the house.*
- The extension will impact on neighbouring properties and encourage others to do the same.*
- The grass verges outside the house have been churned up by the lorries that have been delivering materials.*
- The vehicular access will create traffic problems.*

Two letters of representation have been received objecting to the amended plans; the issues raised are detailed below:

The applicant at every stage of the build since the first application was granted in 2006 has not kept to the plans passed:-

- The front extension is much larger than agreed*
- The canopy and pillars, not agreed*
- Hardstanding to the front of the house and the vehicular access onto Worry Goose Lane started on a Friday afternoon, the same day as retrospective plans were sent to the Council even though it had been refused before.*

- *The plans are still larger than stated in the planning rules that are laid down by the Council and should be refused on that reason alone.*
- *At every stage of the build permission has been granted retrospectively, this makes a mockery of the whole planning regulations that we have.*
- *At every stage the applicant has been allowed to get more and more given to him with no thought given to any impact to the street and community.*
- *The applicant still persists on applying for planning permission for a driveway to the front of his property regardless of the fact that every time he has applied it has been refused.*

Copies of the letters will be available in the Members' Room prior to the meeting.

Two right to speak requests have been received both from objectors.

Consultations

The Council's Transportation Unit initially recommended refusal of the scheme as the vehicular access onto Worry Goose Lane would introduce a further point of potentially conflicting vehicle movements in a classified road, in the vicinity of a road junction, to the detriment of the free and safe flow of other traffic. However, after applicant has omitted the vehicular access onto Worry Goose Lane from the application the Transportation Unit have no objections and have advised that the drainage of the hardstanding is OK in principle.

Appraisal

Since the application was last presented to planning board the applicant has done the following alterations to the scheme:

Omitted the front canopy extension, and

Blocked up the hedgerow that had been opened up fronting Worry Goose Lane by a close boarded fence.

It should also be noted that the hardstanding element is permitted development due to the on-site soakaway.

The amended application is now seeking retrospective permission for the front extension to the property that has been constructed contrary to the plans approved under application RB2008/0594.

With the above in mind the rest of this report will assess the impact of the unauthorised front extension; it is therefore considered that the main issues relevant to the determination of the application are: -

- *The impact of the front extension on the host property and the streetscene*
- *Highway Issues*

The impact of the front extension on the host property and the streetscene

The front extension which has been constructed projects out approximately 1.6 metres on the boundary with No. 21 Worry Goose Lane and within 2 metres of a habitable room window of No. 21, instead of the approved 1 metre and the extension also projects out over 3 metres in the centre of the front elevation instead of the approved 2 metres due to the addition of a canopy extension which was not on the previously approved plans, even if the front canopy is omitted from the scheme it would still project 2.5 metres more than 2 metres from a habitable room window.

The Council's adopted SPG 'Housing Guidance 1: Householder development' recognises that front extensions can alter the main elevation of a house and should be modest in scale. In order to minimise the effect on the living conditions of neighbours, any extension less than 2 metres from a habitable room window of a neighbouring property should project no more than 1 metre, this is increased to a permitted projection of 2 metres where the extension would be 2 metres or more from a neighbouring window. Therefore, with the aforementioned guidance in mind, even with the canopy extension being omitted from the scheme, the front extension which has been constructed at No. 19 Worry Goose Lane is in conflict with the guidance due to its 1.6 metres projection within 2 metres of a habitable room window of another property and its 2.5 metres projection more than 2 metres from a habitable room window.

Furthermore, the front extension that has been constructed is of a size, scale, form, design, siting, materials and relationship with the surrounding area that represents an inappropriate addition to this dwelling that has a severely detrimental and overbearing impact on the appearance on the front elevation of the house itself and has an increased adverse impact on the appearance of the house in relation to the streetscene. Accordingly, it is considered that the proposal is contrary to the requirements outlined within Policy ENV3.1 'Development and the Environment' which seeks to ensure that all development makes a positive contribution to the environment by achieving an appropriate standard of design having regard to style, size, scale, form, massing, siting and relationship with the locality.

Highway Issues

Turning to highways issues it is considered that now the vehicular access onto Worry Goose Lane has been omitted the proposal will not give rise to any highway implications as all vehicular access/egress will be derived from Reresby Road to the existing double detached garage as conditioned on RB2008/0594.

At present the gap in the boundary is still open, as such it is considered that if the proposal is approved a condition should be attached to ensure that this gap is blocked up in accordance with a scheme to be submitted to and approved by the Local Planning Authority within 2 months of the permission and shall at no time be opened up for use as a vehicular access.

The hardstanding that has been created to the front of the site is considered to be permitted development due to the fact that any surface water will run off into the soakaway located to at the front of the site, which would be in accordance with the requirements outlined with the General Permitted Development Order (Amended) 2008.

Consideration of Human Rights:

When considering Enforcement Action, Members must also have regard to Article 8 of the First Protocol of the European Convention on Human Rights under which every person is entitled to the peaceful enjoyment of his possessions except in the public interest.

The Service of an Enforcement Notice is an interference with the rights of the applicant. However in my view the interference is justified as in this case it is considered that the front extension results in a level of overshadowing, overbearing and outlook that is obtrusive and has an adverse impact on the residential amenity of occupiers of neighbouring properties. It is considered that the front extension that has been constructed is in direct conflict with the requirements detailed within adopted UDP Policy ENV3.1 'Development and the Environment' as the front extension would not make a positive contribution to the environment, due to its size, scale, form, design and impact on the locality and would also be contrary to the guidance within 'Housing Guidance 1: Householder development' of the adopted SPG for adding a front extension which state that a front extension within 2 metres of a habitable room window of another property should project no more than 1 metre, this is increased to a maximum projection of 2 metres where the extension would be more than 2 metres from a habitable room window.

Therefore the legitimate aim is of protecting the "rights of others" through the preservation of the environment. I am also of the view that the interference is both necessary and proportionate. In conclusion I believe there is no infringement of human rights as the interference is necessary for the preservation of the environment in the interests of the community."

I consider in light of the above that the Council should take enforcement action in order to remove the canopy extension, ensure that the front extension is constructed in accordance with the plans approved under RB2008/0594 and the gap in the front boundary being restored in a manner to be approved with the Local Planning Authority.

Conclusion

With the above in mind it is considered that the front extension by virtue of its size, scale, siting and design is out of keeping with the host property and has a detrimental effect on the appearance of the dwellinghouse, the streetscene and neighbouring properties. Therefore, the proposed development is in conflict with the requirements detailed within the adopted UDP Policy ENV3.1 'Development and the Environment' and SPG 'Housing Guidance 1: Householder development', as such the proposal is recommended for refusal for the reasons outlined above.

In addition, it is considered that enforcement action should be taken against the owner of the property to ensure that the front extension that has been constructed is removed from the property and re-built in accordance with the plans approved under RB2008/0594, the canopy extension is also removed from the property and the gap in the front boundary is restored in a manner to be agreed with the Local Planning Authority.

ITEM 2

**Proposed Tree Preservation Order No 1 2009 – Sycamore and Silver Birch trees
146 Morthen Road, Wickersley.**

Recommendation:-

That Members confirm Tree Preservation Order No 1 2009 with regard to the Sycamore and Silver Birch trees, situated within the curtilage of 146 Morthen Road, Wickersley under sections 198 and 201 of the Town and Country Planning Act 1990

Background

Members will recall that application RB2008/1813 for the retrospective demolition of the existing dwelling at No. 148 Morthen Road and the erection of 2 no. detached dwelling houses including repositioning of existing access was, following a site visit at the Planning Regulatory Board meeting on 9 April 2009 refused permission. The fourth reason for refusal stated: -

“The Council considers that inadequate information has been supplied within the tree report to assess the impact of the development on the adjacent Sycamore tree. In addition, it is considered that the close siting of the proposed building to the tree would result in conflict between the needs of future residents to achieve adequate daylight and the desire to retain the tree in the interests of amenity contrary to Policy ENV3.4 Trees, Woodlands and Hedgerows of the Unitary Development Plan.”

Issues

The Council's arboriculturalist has inspected the site and has advised that there are two trees that are suitable for inclusion in a new Tree Preservation Order, being the Sycamore tree referred to above and a Silver Birch tree both of which are within the curtilage of No. 146 Morthen Road. In regard to the Silver Birch this has been included as it provides important amenity value owing to its position within the front garden to No.146 Morthen Road.

The inclusion of the Sycamore Tree is due to the risk from the proposal to construct a potential second dwelling within the rear garden area of the demolished property at No. 148 Morthen Road and the impact this would have on the future prospects of retaining the tree, as at present it has not been demonstrated that adequate root protection measures are achievable in accordance with the advice of BS5837:2005 'Trees in Relation to Construction Recommendations'. Furthermore should a development be subsequently undertaken it is considered that this would result in additional pressure between the needs of future residents to achieve adequate daylight and the desire to retain the tree, in conflict with the overall vitality of the tree.

Publicity

The Order has been served on the owners of No. 146 Morthen Road as well as the owners of the adjacent properties at No. 144 and the land owner of No.148 Morthen Road. An objection to the making of this Order has been received by Mr Sotheran (an arboricultural consultant) on behalf of the land owner of No. 148 Morthen Road in respect of the proposed Order upon the Sycamore tree only and raises the following comments -

- Tree is 'self set' and unlikely to have been planted within a hedgerow as a specimen tree;
- Age of between 70-80 years old is somewhat optimistic;
- Contests the useful life expectancy of 40-100 years;
- Position of tree does not have any immediate visual impact on passing public;
- A new dwelling positioned to the site frontage will lessen its effectiveness as a valuable amenity to the area;
- Prospective future growth is not suitable for a relatively narrow domestic garden;
- In garden situations it is prone to nuisance i.e. honeydew dropping, and creates dense shade;
- Tree has no special features i.e. autumn colour, fruit, little wildlife value; and
- Other trees in vicinity are better amenity value and Sycamore Tree is effecting the natural development of other trees.

A Right to Speak request has been received by Mr Dale - the landowner of No. 148 Morthen Road.

Comments

In response to the above objection, the main points appear to be as follows:-

- The tree has limited amenity;
- The tree is not suitable for medium to long term retention;
- The tree has little aesthetic merit; and
- It will limit the future growth of adjacent trees that have better aesthetic qualities

Limited amenity:

Mr Sotheran states the Sycamore tree has no immediate visual impact on the passing public due to its position 68 metres from Morthen Road. He also states that the erection of a new dwelling at No. 148 Morthen Road will lessen its effectiveness as a valuable amenity.

It is accepted that the tree in question is not prominent in the street scene due to its position away from the main highway. However, the large forest type trees within the rear gardens of the properties on Morthen Road are considered to contribute to the overall amenity and character of the area, particularly where the properties share the boundary with the Green Belt and an Area of High Landscape Value as in this case. The demolition of the original bungalow at No.148 Morthen Road has increased its visibility and this no doubt will be reduced again by the construction of a new dwelling. The extent of overall visibility of the Sycamore following any development will depend on its scale that has yet to be determined. However, even if a two storey house is constructed rather than a bungalow it is likely to remain partially visible between the adjacent houses as well as

above the roofline. In addition, if it is retained its visibility above the roofline is likely to increase as it continues to grow. Indeed, these factors were taken into account when it was tested in accordance with the guidance and advice of the Tree Evaluation Method for Preservation Orders (TEMPO system).

Useful life expectancy and suitability for medium to long term retention:

Mr Sotheran states that if the tree is retained it will become too large for its setting and the area it occupies will be unable to support its future growth. He considers it to be suitable only for a large garden or parkland rather than a relatively narrow domestic garden. He contests its useful life expectancy of between 40 to 100 years.

The age of the Sycamore tree is estimated as 70 to 80 years based upon measurements taken of its main stem, 185cm (6 feet 2 inches), and average incremental growth of 2.5 cm (1 inch) a year. This is in accordance with the advice of *The Field Guide to Trees in Britain and Northern Europe* by Alan Michell. Mr Sotheran believes this is an optimistic estimate as he would expect a Sycamore tree to be considerably larger at this age. However, it is difficult to determine the exact age of a tree without involving invasive survey methods that may be harmful. Also its exact age is not critical in dealing with this matter.

The life expectancy of a Sycamore is 200 to 300 years in accordance with the guide published by the Arboricultural Association. The full size of a mature tree is difficult to predict as this will depend on many factors including its surrounding environment and the availability of moisture and favourable growing conditions. The narrow gardens referred to are approximately 22 and 15 metres in width at Nos.146 and 148 Morthen Road respectively. This is larger than the average garden width of approximately 8 to 10 metres. Whilst the Sycamore is positioned towards the boundary with No. 148 Morthen Road there appears to be adequate space for it to continue to grow without causing any severe problems to the owners or their neighbours apart from branch and root encroachment over and within the garden areas. Careful pruning in the future may help to alleviate any serious problems of branch encroachment. Therefore, provided the Sycamore remains in good condition with no serious defects its future life expectancy of 40 to 100 years as previously indicated appears a conservative estimate in this instance. However, even if this was considered to have a useful life expectancy of between 20 to 40 years it would still meet all the criteria for inclusion within the Order.

Limited aesthetic merit:

The TEMPO system does not assess trees on their aesthetic qualities, possibly as this may be a very subjective matter. The problems of "honeydew", a sticky sap secreted by aphids feeding on the leaves of certain trees, are fully appreciated. However, the extent of this problem can vary from year to year depending on insect populations and local weather conditions. Also, due to the overall size of the rear gardens concerned and the fact that the branches only overhang a small part of the garden areas these difficulties are unlikely to be serious in this instance. The difficulties of shading are also unlikely to be a serious at No. 146 Morthen Road, given the position of the tree to the north of the property and the existing shading created by buildings and other trees.

Retention will limit future growth of adjacent trees that have better aesthetic qualities:

Mr Sotheran states that the retention of the Sycamore will adversely affect the future growth of nearby trees that he considers to be better amenity trees.

The Hawthorn and Poplar are within the garden at No. 146 Morthen Road and the Blue Spruce at No. 148 Morthen Road. Ultimately the Hawthorn is a medium growing tree that will be less visible from Morthen Road than the Sycamore. The Poplar was not included in the Order because characteristically they have vigorous and invasive root systems. Indeed, Mr Sotheran referred to the Poplar being unsuitable for retention in close proximity to buildings for this reason in his tree survey and report date, June 2008, submitted as part of the recent application for re-development at No. 148 Morthen Road, (Ref RB2008/1813). Provided the Sycamore is retained the removal of the Hawthorn and the Poplar will have little adverse impact on amenity. The Blue Spruce also appears to have less future potential, particularly once a new dwelling is constructed at No. 146 Morthen Road.

Conclusion

The objections to the Order have been carefully considered and the Order has been made in accordance with Government guidelines. In this instance there appears to be no reason not to confirm the Order as it stands. Therefore, it is recommended that the Order is confirmed without modification.

ITEM 3

Development Control Performance Report

Recommendation

That the contents of the report be noted.

Background

The purpose of this report is to inform Members of the performance of the Development Control service during the previous financial year (2008/2009) and to outline the targets and performance initiatives for the current year.

Facts and Figures

Performance statistics for Development Control (DC) are still primarily focussed around the speed of decision making for the three different types of application categories (Major, Minor and Other). Nationally the Government has set minimum standards for the time allowed to deal with these types of applications. These are currently set at:

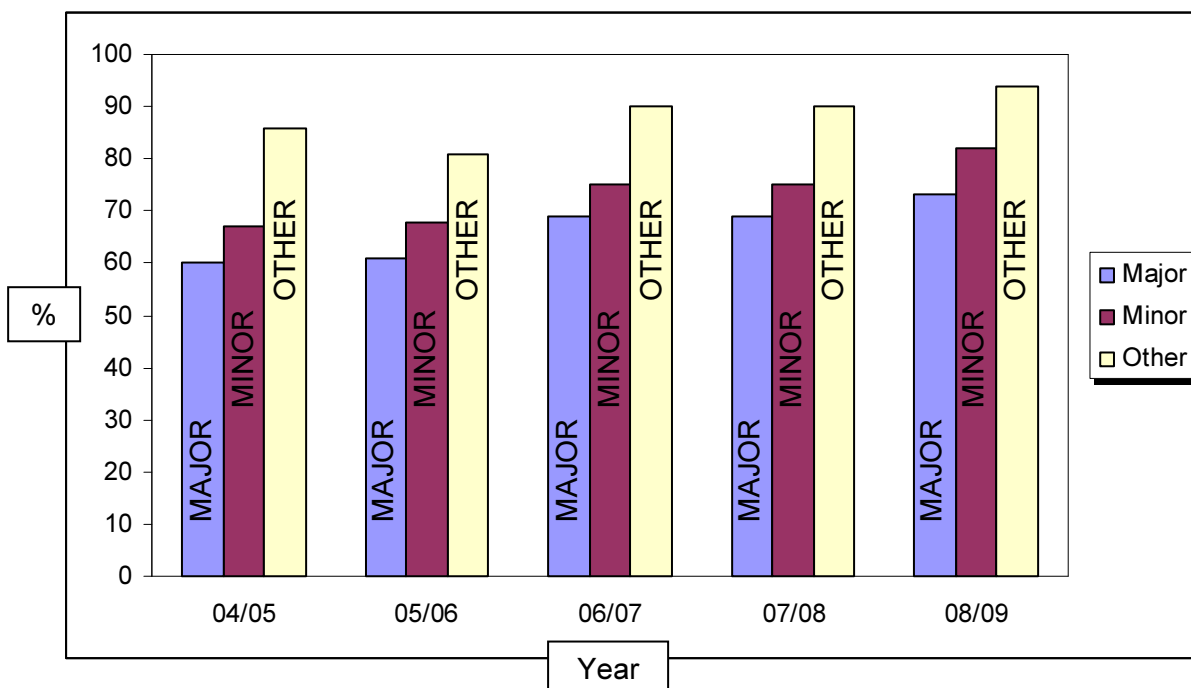
<i>Major</i>	<i>60% of applications to be determined within 13 weeks</i>
<i>Minor</i>	<i>65% of applications to be determined within 8 weeks</i>
<i>Other</i>	<i>80% of applications to be determined within 8 weeks</i>

Previously these targets have been used as a benchmark against which to award the Planning Delivery Grant (PDG) but are now used primarily as an indicator of performance and are expected to be increased in the near future. Whilst PDG is no longer awarded against DC performance it is still important to maintain a high percentage of applications determined within the statutory timescales as this is included within the Comprehensive Area Assessment (CAA) criteria to ensure that services are efficient and accountable. Last year DC performed significantly well across all three application types and achieved the following results:

Major	73.13% of applications determined within 13 weeks
Minor	81.97% of applications determined within 8 weeks
Other	93.63% of applications determined within 8 weeks

Final figures for all other LPA's have yet to be published but compared to 07/08, the above statistics would have put Rotherham within the top quartile for Other applications. This is a significant achievement and is a step towards our overall goal of top quartile performance against all three indicators.

It is also important to recognise the continuous improvement in the speed of decision making of planning applications from the preceding years as this demonstrates a positive direction of travel and highlights that the improvement and efficiency initiatives that have already been implemented are having a positive impact. The following graph indicates the stepped improvement for each application type over the previous five years.



It should also be noted that last year saw the introduction of the move from two week Planning Boards to three weeks. Clearly, this move has not resulted in any drop in performance related to the speed of determining planning applications as performance improved across all three application types. To reflect this, and as part of our commitment to continuous improvement, targets for the forthcoming year have been set

at a standard much higher than those imposed by Government and reflect our desire to achieve top quartile performance and maximise out CAA rating. Targets for 09/10 are:

<i>Major</i>	<i>76% of applications determined within 13 weeks</i>
<i>Minor</i>	<i>84% of applications determined within 8 weeks</i>
<i>Other</i>	<i>94% of applications determined within 8 weeks</i>

Pre-Application discussions

In order to help achieve the targets set for the speed of decision making we have introduced a new pre-application service that seeks to increase the efficiency of the Council's planning process and to resolve any planning problems and issues with the applicant's at an early stage, before the submission of a planning application. Advice can be given on a whole range of proposals from house extensions to major residential and commercial developments.

The service will:

- Identify and overcome issues that might prevent proposals from gaining planning permission*
- Provide advice on how to tackle these issues and rectify problems before the application is submitted*
- Improve the quality of the design and layout of the proposal in line with the aims of sustainability as set out in Planning Policy Statement 1 (Delivering Sustainable Development) and other planning guidance and policies – including where required, presentation of the information at the Council's Design Panel*
- Allow advice to be given on the appropriate consultation of the community on major proposals in line with the Council's Statement of Community Involvement*
- Ensure that when the application is submitted there is a greater chance of a positive decision being made within the required 8 and 13 week deadlines for determining planning applications.*
- Reduce the amount of negotiation and amendments on submitted applications to a minimum*

As resources are to be targeted at providing a pre-application service the amount of negotiation to be carried out as part of the formal application process will be reduced. If pre-application advice is not sought, and a planning application is subsequently found to be unacceptable, it is not intended that case officers will request amended schemes/plans for these applications. Such applications would be refused though, where applicable, comments would be sent to the applicant with any decision notice setting out what amendments could take place to address the reasons for refusal and noting that a further application for the same development would not require a fee if submitted within 12 months of the date of the refusal.

Fees are charged to applicants for pre-application advice on "major" schemes (defined under "Advice for Major Schemes"). Under the Local Government Act 2003, Council's are able to charge for such services, and we have decided that fees will be required for major schemes due to the resources needed to run the service effectively. There are no charges for pre-application guidance for minor schemes or householder developments (such as house extensions).

Fees have been set at:

<i>Large scale major development</i>	
<i>Initial Meeting</i>	<i>£800</i>
<i>Subsequent meetings</i>	<i>£500</i>
 <i>Small scale major development</i>	
<i>Initial Meeting</i>	<i>£500</i>
<i>Subsequent meetings</i>	<i>£300</i>

Appeal Statistics

Whilst it is important to continue to monitor the speed of determining planning applications, this should not be at the expense of good quality decision making which embrace the Authorities aspirations of high quality sustainable development to make Rotherham a better place to live now and in the future.

To continue to achieve these targets we have had to adopt a more robust approach to negotiations. This has resulted in a slight increase in the number of refusals within the statutory time limits for applications failing to meet planning requirements, particularly where they have not had meaningful pre-application discussions.

Refusals:

<i>2006-07</i>	<i>10.67%</i>
<i>2007-08</i>	<i>10.94%</i>
<i>2008-09</i>	<i>14.47%</i>

Consequently, this has lead to an increase in the number of appeals that have been submitted to the Planning Inspectorate over the same period.

Number of appeals:

<i>2006-07</i>	<i>34</i>
<i>2007-08</i>	<i>33</i>
<i>2008-09</i>	<i>39</i>

It is however anticipated that the level of appeal activity will fall back to 'normal' levels as the take up of pre application advice increases and the refusal rate returns to around 11%. To promote this, an advice note will be been sent out with all decision notices stating what the service is, how much it costs and what can be expected from it. We are expecting to see a stepped increase in the amount of time the officers spend on potential developments before the application is formally submitted.

The Government has also recently introduced some new procedures to the appeal service which may have an impact on the number of appeals submitted. Since 6th April 2009, any 'householder' application submitted after that date will fall within a new, expedited process for householder appeals which are suitable for written representations, to be known as the "Householder Appeals Service".

For clarity the householder appeals service does not include:

a change of use or the erection of a dwelling;

appeals against “non-determination,” i.e. where the Council failed to issue a decision within the timescale allowed; or

householder appeals which are accompanied by an appeal against the refusal of listed building consent or the service of an enforcement notice.

The key changes are:-

12 weeks instead of 6 months to appeal

*3rd Parties cannot comment (original letters of objection will be taken into consideration)
No opportunity to add any further written statement – the Council’s case will be the case officer’s delegated (or Board) report together with any minutes from the Planning Regulatory Board. If Members are to refuse a householder application against officer recommendation, the Board minute must clearly state the reasons why as this will form the Council’s appeal statement.*

Costs can be applied for in all types of appeals including ‘Householder’ appeals

Enforcement

One thing that is clearly noticeable from last year was the reduction in the number of planning applications submitted to the Council. Indeed planning application numbers have been slowly declining over the previous 5 years.

<i>2005-06</i>	<i>-3.15%</i>	<i>from previous year</i>
<i>2006-07</i>	<i>-2.26%</i>	<i>from previous year</i>
<i>2007-08</i>	<i>-8.17%</i>	<i>from previous year</i>
<i>2008-09</i>	<i>-23.44%</i>	<i>from previous year (some Council’s have reported reductions in excess of 40%)</i>

Whilst staff numbers have also declined during this period, this reduction in applications has given rise to the ability to provide a more pro active enforcement service as resources have slowly become available. A new enforcement monitoring system has been developed to ensure that the service is accountable and targets have been set in line with the enforcement concordat that the Authority has signed up to.

In addition, and as part of the process of moving towards Development Management as opposed to Development Control, we have begun to select a sample of ‘commenced’ developments to ensure that the developer has complied with any relevant conditions that should have been discharged before commencing development. Historically we would have relied on complaints from neighbours as resources did not allow for such a pro-active approach.

Case officers will visit the site and write to the developer to let them know if any of the conditions are being breached. We will advise them that works on site should cease until

the required details/works are received/carried out and that effectively their planning permission has not been implemented until all pre-commencement conditions are met.

Performance statistics on enforcement matters will be reported quarterly together with planning application statistics.

Design Panel

Last year saw the implementation of the Design panel. The function of this Panel is to provide a critical analysis of planning applications via monthly meetings at the Council involving Council officers, applicants, internal and external architects (who attend on a voluntary basis) and Members. Its overall aim is to add value to the determination of planning applications by critically appraising the quality of the submissions and acting as a non statutory consultee. These Design Panel meetings are considered to be extremely useful and are set to continue indefinitely.

Team Action Plan (TAP)

In addition to all of the above, DC has recently submitted its Team Action Plan for 2009/10. This document indicates a series of tasks and improvement initiatives which are intended to be delivered throughout the forthcoming year as we continue with our vision to be a top performing service and maximise our CAA rating.

The key additional areas within the TAP are:-

- Introduce and develop Development Management (DM) in line with key recommendations for implementing development management processes highlighted in PAS 'Development Management'.*
- Review and manage out of time applications to achieve a maximum of 9% of total applications in hand.*
- Update all our householder guidance leaflets to account for the changes contained within The Town & Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008.*
- Update all internal procedures to ensure that processes are up to date and relevant.*
- Enhance the customer surveys that are carried out and undertake a series of Customer Journey Maps to identify barriers to an efficient and quality service.*
- Implement a Document Management System with integrated workflow to increase the level of electronic communication and ensure that DC is ready for the introduction of worksmart.*
- Undertake a comprehensive business process review of the DC service to streamline the planning application workflow model and increase efficiencies.*
- Complete a comprehensive review of our standard conditions to help with the consistency of decision making and to take account of recent appeal decisions.*
- Produce a S106 obligations policy aligned to the policies and principles detailed in Circular 05/05.*

Conclusion

Development Control has continued to surpass the standards set by Government for the speed in which it determines all types of planning applications and has set itself tough,

but achievable targets in its focus to maximise its CAA rating and put itself amongst the top quartile of Local Planning Authorities in the Country.

During this downturn of submitted applications, we are maximising our available resources by providing a more pro active approach to planning enforcement and revitalising the way that applications are handled through the implementation of a document management system. Not only will this allow us to communicate more efficiently with our range of statutory and non statutory consultees, it will provide the foundation and technology required to enable us to make a smooth transition into worksmart principles and provide an efficient and accountable service.

We have continued to build on the Charter Mark for Customer Service Excellence that we were awarded in 2005 by ensuring that we maintain these standards as a minimum and have continued to provide training and guidance for all staff on customer care. We regularly survey our customers and have continued to receive a high level of satisfaction ratings from these with 84% of respondents satisfied with the service. During this forthcoming year we will expand on these surveys to seek the views of all participants in the Development Control process in our commitment to providing the best possible service and ensuring that we are accountable and offer value for money.

Our team action plan is comprehensive and sets our objectives for the forthcoming year. Our overall aim is to continue to improve and benchmark ourselves against other high performing Councils.

ITEM 4

Retrospective Planning Applications

Recommendation

That the contents of the report be noted.

Background

Members have expressed concerns about the number of retrospective applications being submitted and this report sets out the issues that need to be considered when such applications are determined.

Facts and Figures

Under the Council's Scheme of Delegation the Director of Planning Service can determine retrospective applications if they relate to developments that would normally fall within the Scheme, such as house extensions or buildings within the gardens of residential properties. If objections are received in respect of such applications the proposals are referred to the Chairman and Vice Chairman of the Planning Board. Where a retrospective application is recommended for refusal, irrespective of whether any objections have been received, it should be referred to the Chairman and Vice Chairman for consideration as to whether enforcement action should follow.

During the past 5 years, a total of 328 retrospective applications have been submitted:

<i>Year:</i>	<i>No. Applications</i>	<i>% of total</i>	<i>% of retrospective applications considered by Board</i>
<i>2005-2006</i>	<i>51</i>	<i>2.0</i>	<i>19.6</i>
	<i>41</i>	<i>1.7</i>	<i>17.0</i>
	<i>58</i>	<i>2.4</i>	<i>13.8</i>
	<i>79</i>	<i>3.6</i>	<i>8.9</i>
	<i>99</i>	<i>5.9</i>	<i>11.1</i>

Of the total of 328 retrospective applications, 14.9% were refused. During the same period, 8.6% of applications as a whole were refused.

Legal Position and Government Guidance

Section 73A of the Town and Country Planning Act 1990 relates to "Planning permission for development already carried out" and states that planning permission can be granted for development already carried out.

Government guidance on the determination of retrospective applications is set out in Planning Policy Guidance Note 18 'Enforcing planning control'. PPG18 states that:

"In assessing the need for enforcement action, Local Planning Authorities should bear in mind that it is not an offence to carry out development without first obtaining any planning permission required for it. New section 73A of the 1990 Act specifically provides that a grant of planning permission may relate to development carried out before the date of the application. Accordingly, where the LPA's assessment indicates it is likely that unconditional planning permission would be granted for development which has already taken place, the correct approach is to suggest to the person responsible for the development that he should at once submit a retrospective planning application. It may also be appropriate to consider whether any other public authority (e.g. the highway or environmental health authority) is better able to take remedial action.

While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not normally be issued solely to "regularise" development which is acceptable on its planning merits, but for which permission has not been sought."

With this in mind, the Scheme of Delegation also allows the Director of Planning to determine whether it is expedient to take action where there has been a breach of planning control. In other words, if the breach is relatively minor the Director of Planning can decide that it would not be appropriate to pursue formal enforcement action.

PPG18 adds that "...it will generally be regarded as "unreasonable" for the LPA to issue an enforcement notice, solely to remedy the absence of a valid planning permission, if it is concluded, on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice. Accordingly, LPAs who issue a notice in these circumstances will remain at risk of an award against them of the appellant's costs in the enforcement appeal."

PPG18 further goes on to state that “A LPA may consider that development has been carried out without the requisite planning permission, but the development could be made acceptable by the imposition of planning conditions (for example, to control the hours, or mode of operation; or to carry out a landscaping scheme). If so, the authority may invite the owner or occupier of the land to submit an application. It can be pointed out to the person concerned that the authority do not wish the business, or other activity, to cease; but they have a public duty to safeguard amenity by ensuring that development is carried out, or continued, within acceptable limits, having regard to local circumstances and the relevant planning policies. LPAs should bear in mind the need to consult on such applications in the normal way and the possible effect of such development on the functions of statutory undertakers.”

Finally, PPG18 notes that “...where an owner or occupier of land refuses to submit a planning application which would enable the LPA to grant conditional planning permission, the authority would be justified in issuing an enforcement notice if, in their view, the unauthorised development has resulted in any injury to amenity, or damage to a statutorily designated site, which can only be satisfactorily removed or alleviated by imposing conditions on a grant of planning permission for the development.”

PPG18 makes it clear that the advice it provides in no way condones a wilful breach of planning law, but that LPAs should only take enforcement action where they regard it as 'expedient'. Many of the retrospective applications we receive will be as a result of ignorance on the part of the applicant, who may have been contacted by the Council following complaint from a local resident. The submission of a planning application allows them to regularise the situation and the majority of applications are acceptable on planning grounds.

Conclusion

It is clear that whilst the number of planning applications overall is dropping the number of retrospective applications is increasing. There is no clear explanation as to why this is happening. PPG18 makes it clear that those carrying out works before they have planning permission are not acting unlawfully. It adds that problems may arise when the owners try and sell their property without the benefit of appropriate planning permission. Where an application is retrospective in nature the Act tells us that we have to deal with it as if it was an application that had been made to us in the normal way. In other words, we consider the application on its "merits." We cannot refuse it on the basis that it is retrospective.

ITEM 5

RB2006/1307

Appeal Decision – Allowed

Appeal against refusal of planning permission for the erection of 6 six metre high lighting columns at Simms Metals, Ulley Lane, Aston.

Recommendation

That the decision to allow the appeal be noted.

Background

Planning permission for the erection of the lights was refused at Planning Board on I have now been informed that the appeal has been allowed. The Inspector considered that the main issues were:-

- *whether the proposal would be inappropriate development in the Green Belt*
- *the effect on the openness of the Green Belt*
- *the effect on the character and appearance of the area and the living conditions of neighbours, with particular regard to levels of illumination*
- *whether there are any other considerations which would clearly outweigh any harm to the Green Belt, and any other harm, thereby justifying the proposal on the basis of very special circumstances.*

Principle of development and impact on openness of Green belt:

With regard to the Green Belt issue the Inspector noted that the appeal site forms part of a large long established scrap yard which is located within the Green Belt and that the proposed lighting columns do not fall within any of the categories of buildings or structures allowed for in PPG2 or Policy ENV1. Consequently, the proposal represents inappropriate development which is, by definition, harmful to the Green Belt. However, he considered that the lighting columns are of a slim design and would not cause any significant reduction in the openness of the Green Belt.

Character and appearance and living conditions:

The Inspector notes that "The lighting columns are small in scale and height in relation to the overall size of the site and the nature of the activities carried out within it. Accordingly, they do not appear as unduly prominent or intrusive features locally. The appellant has carried out a lighting assessment using the guidance provided by the Institute of Lighting Engineers. When all the lights were on, some readings, particularly within the vehicle storage compound, were higher than the recommended levels. However, I understand that, in practice, this level of brightness would only occur up until 1900 hours during winter months. After 1900 hours, when the lights facing away from the vehicle storage compound would be turned off, the brightness on the appeal site and the area around it would fall below recommended maximum levels, even if the area were to be categorised as a low district brightness area. Furthermore, under all scenarios readings around the north-west boundary of the scrap yard and along Ulley Lane appear to fall below the recommended levels.

In addition, the lights would be angled down at 45 degrees so helping to reduce any unnecessary glare. Furthermore, I note that the Report to the Planning Regulatory Board advises that the illumination which has caused concern to residents may well have been caused by other lights within the scrap yard which are not part of the appeal proposal. Taking all of the above into account, I am satisfied that the level of illumination proposed would not cause any significant harm to the character or appearance of the area or to the living conditions of neighbours living close to the site or further away. Nor, despite

concerns, is there any substantive evidence that the proposal would lead to excessive levels of sky glow. I appreciate that the site is located within the countryside and is close to areas of housing. However, the site is part of a long established scrap yard and, in this context, I consider that the lighting proposed is both reasonable and proportionate given the size and use of the site.

Other considerations:

The Inspector accepted the appellant's view that the lights are required to enable the CCTV system to function, to illuminate the site and to allow safe working, particularly in winter months. He further noted that he had no firm evidence to indicate that any significant increase in activity is proposed on site or any evidence that any such increase would inevitably involve significantly longer working hours. He felt that provided the lights are angled down there should be no impact on drivers using the nearby public highways.

Very special circumstances:

The Inspector considers that the need to provide adequate lighting in order to ensure safe working and security on a sizeable and long established scrap yard is sufficient to clearly outweigh the harm to the Green Belt by reason of inappropriateness. This consideration, therefore, amounts to the very special circumstances necessary to justify the development.

In order to minimise the impact of the lights the Inspector has attached the following conditions to the permission:

1) The lights facing away from the application site (the vehicle storage compound) as shown on drawing CJBASTLIGHT_DETAIL_01 Rev No 001 shall only be on between the hours of 0700 and 1900.

2) All lights hereby permitted shall be angled down at 45 degrees to the horizontal at all times.

ITEM 6

Ref: RB2008/1125

Appeal Decision – Appeal Dismissed

Appeal against refusal of planning permission for the erection of a two-storey side Extension t 3 Tasman Grove, Maltby for Mr.Wright

Recommendation:-

That the decision to dismiss the appeal be noted.

Background

The application (RB2008/1125) was refused permission on 26 August 2008 under Delegated Powers. The reason for refusal was;

"It is considered that the proposal would constitute an unacceptable form of development and would, by way of it's size and siting, result in a material detrimental effect on the character of the area and the visual amenity of the street -scene in conflict with Policy ENV3.1 Development and the Environment of the Unitary Development Plan and Housing Guidance leaflet 8 'Adding a two storey side extension' which states that the Council will not normally favour extensions that take up more than half of the available width between the side of the house and the boundary with the road."

I have now been informed that the appeal has been dismissed.

The Inspector considered that the main issue in this case is whether the proposed extension would have a harmful impact upon the street scene.

He noted that "The appeal property is a detached house located in a prominent position near the entrance to a short cul-de-sac. It is part of a large suburban housing area. Although the dwellings in the vicinity of No.3 are of no particular architectural merit, overall, they have a harmony of appearance. This derives from their similar plain designs. Most of the properties stand close together and, although limited, the spaces between dwellings do provide some visual relief from the relatively dense built environment."

The Inspector considered that "The proposed extension would almost double the size of the existing house and take up a considerable proportion of the side garden, thus reducing the openness of the area. The completed house would be unacceptably dominant in this prominent location. The proportions and fenestration would not relate sympathetically either to the parent building or to the immediate and close neighbour, No.1. There is, therefore, no doubt that the shortcomings of the appeal proposal would seriously harm the street scene. It follows that it would conflict with the UDP Policy and Housing Guidance. I have noted the reference to other extensions in the wider area but I am satisfied that the circumstances of these differ from the present case which, in any event, I have determined on its merits."

Conclusion

The Inspector concurs with the Council that the proposal would be harmful to the character and appearance of the area and in conflict with adopted design guidance and the purposes of Policy ENV3.1 of the adopted Rotherham Unitary Development Plan.

ITEM 7

Ref: RB2008/1532

Appeal Decision – Appeal Dismissed

Appeal against refusal of planning permission for the erection of a two-storey building comprising of 6 flats with associated parking and bin store at land at rear of 293 Kimberworth Road, Kimberworth for Robinson Court Properties Ltd.

Recommendation:-

That the decision to dismiss the appeal be noted.

Background

The application (RB2008/1532) was refused by Planning Board on 20 November 2008. The reasons for refusal are detailed below:

01

The Council consider that the proposed development by reason of its size, scale, form and detailed appearance is considered to be unsympathetic to the context of the site, is of a poor relationship with adjacent buildings and its design fails to take the opportunities available for improving the character of the area. The proposal is therefore contrary to UDP Policies ENV3.1 'Development and the Environment', HG1 'Existing Housing Areas' and HG5 'The Residential Environment', Supplementary Planning Guidance 3 'Residential Infill Plots' and national planning guidance in PPS1 'Delivering Sustainable Development' paragraph 34.

02

The Council further consider that the proposed development will have a detrimental effect on the amenities of occupiers of the existing flats within the Robinson Court complex by virtue of overlooking and a loss of privacy to the private amenity space to the rear of the flats due to the close proximity of the proposed development.

03

The Council also considers that the existing access drive is unsuitable to cater for the additional vehicular and pedestrian traffic likely to be generated by the proposal by virtue of its substandard junction with C759 Kimberworth Road where the steeply inclined nature of the drive will have an adverse effect on the free and safe movement of vehicles leaving the site.

Main Issues

The Inspector considers the main issues to be the effect of the proposed development on:

*the living conditions of adjoining occupiers;
the character and appearance of the surrounding area; and
highway safety.*

Reasons

Living Conditions

The appeal site comprises much of the rear garden of No. 293 Kimberworth Road and the existing access to the adjoining Robinson Court. The land slopes down from the street. There are two blocks of 8 apartments at Robinson Court; the building containing flats 9-16 faces Kimberworth Road while flats 1-8 lie on the backland. There is a shared parking court between the two blocks and a private amenity area to the rear of flats 1-8.

The proposed building would lie to the west of flats 1-8, approximately 1.5 metres from the boundary. It would have a rectangular shape and it would project approximately 7.5 metres behind the adjoining block. There would be a first floor window approximately 6.5 metres back from the rear end of the development – i.e. approximately 1 metre ahead of flats 1-8. The Inspector considers that the window would afford views of and cause an unacceptable loss of privacy within the amenity area next door.

The Inspector states that the separation distance between the proposed block and the recessed wall of the side elevation of flats 1-8 would be approximately 12 metres, which would comply with the Council's SPG 3 only if the existing windows are deemed to serve non-habitable rooms. The Inspector notes that one or two of them appeared to serve kitchens, which can be habitable rooms. In addition, the Inspector further notes how the proposed building would be on lower land than flats 1-8, so the openings could be at different levels and it is unclear from the plans whether or to what degree any windows would overlap at all. Even so, the Inspector considers that the development could potentially cause a loss of privacy inside the facing flats and this would add to their concern that it would unacceptably overlook the garden.

The Inspector states that a condition could ensure new landscaping to help screen views, however the Inspector further states that there would be insufficient room between the proposed building and the boundary for high dense planting. Consequently, the Inspector considers that neither the existing nor potential landscaping would be likely to prevent unacceptable overlooking from the first floor of the proposed development.

The Inspector indicates that a neighbouring occupier in their objection suggests that the proposed building would have an adverse visual impact and block light. In the Inspector's view, the perceived height and bulk of the building would be lessened by its siting on lower land and its hipped roof, as well as any landscaping. However, it would still be visibly higher than the boundary wall. Given this, its nearness to the boundary, the extent to which it would project past flats 1-8 and its position to the west, the Inspector finds that it would be likely to appear obtrusive and overbearing from, and cast an afternoon shadow over the adjoining amenity space and as such it would cause an unacceptable loss of outlook and light.

For the reasons above, the Inspector concludes that the proposed development would cause unacceptable harm to the living conditions of adjoining occupiers. It would conflict with UDP Policies HG1, HG4.3 and HG4.8, which require development to have no adverse effect on the amenity and be compatible with adjoining uses. It would also conflict with the SPG, which expects development to include no windows within 10 metres of a boundary with another residential property.

In reaching this conclusion, the Inspector states that although the block would lie on lower land, the first floor kitchen and bedroom windows in its front elevation would be liable to overlook the conservatory and retained garden at no. 293. The Inspector goes on to say that they are satisfied that unacceptable harm could potentially be overcome by good boundary screening.

Character and appearance

The Inspector noted that the site lies in a predominantly residential neighbourhood where properties vary in terms of age, size, type and style. Robinson Court was approved and built within the past ten years. 293 Kimberworth Road is a post-war dwelling, which appears as a dormer bungalow from the front but is 2.5 storeys high to the rear because of the slope in the land. There are also Victorian buildings nearby. The northern and western boundaries of the site adjoin Bradgate Park, a public open space with recreation and play facilities. The Inspector states that the area has a leafy suburban character.

In the Inspector's view, the layout of the proposed development would broadly correspond with that of Robinson Court. The new rear boundary at no. 293 would align with the rear elevation of flats 9-16 next door. The proposed parking area would lie to the west of the existing at the head of the access. The proposed building would have a different shape to the adjoining blocks, but the Inspector considers that it would be compatible with them in terms of overall scale and design. Like the existing buildings, it would be two-storeys high with hipped roof elements to break up its massing. It would be built in brick with stone quoins and a tiled roof, and its windows and balconies would be similar in size and style to those next door. There would be some detailed differences, but overall the Inspector finds that the proposed development would be in keeping with and would integrate visually with the existing apartment scheme.

When seen from Kimberworth Road, the Inspector considers that the proposed building would appear well-separated from no. 293 as well as complementary to the adjoining flats. The elevations facing Bradgate Park would have the most design interest, and from there the block would be seen to sit in reasonably spacious grounds. Indeed, there would be sufficient room on the boundaries to the park and no. 293 for a landscaping scheme which would soften and partially screen the building. In this situation, the Inspector considers that the proposed development would have a sympathetic relationship to adjoining buildings and the general suburban context of the site.

The Inspector concludes that the proposed development would cause no unacceptable harm to the character and appearance of the surrounding area. It would comply with UDP Policies HG1, HG4.3 and ENV3.1, which permit residential development in predominantly residential areas where it would have no adverse effect on character and achieve an appropriate standard of design. It would also comply with Government guidance in PPS1 and PPS3, which expect development to achieve a good design that is appropriate to its context or takes opportunities to improve the character and quality of the area.

Highway Safety

The proposed development would increase the amount of traffic using the existing drive to Robinson Court. There would be nine parking spaces for the proposed flats and three for 293 Kimberworth Road, so the access would serve 23 rather than 16 dwellings and 36 rather than 24 parking spaces. The Council objects that the existing access would be unsuitable for such intensified usage, because it has a substandard junction with Kimberworth Road as a result of its steep incline. However, the exact gradient is unconfirmed. In the Inspector's view, the Council has provided insufficient evidence to demonstrate either that the slope unacceptably impairs the ability of drivers to turn safely in or out of the site, or that the proposed development would unacceptably exacerbate danger.

Occupiers of Robinson Court suggest that the existing access is too narrow and visibility from it along the street can be restricted by on-street car parking. However, the Inspector considers that since it is approximately 5.5 metres wide, there is ample room on the access for a car to be driven past a pedestrian, another car or even a van or truck. In terms of on-street parking, the Inspector notes they saw that some nearby dwellings have private parking spaces and there is a bus stop outside Bradgate Park. The Inspector therefore sees little reason to believe that views out of the site are frequently reduced to a hazardous extent, and indeed the Highways Authority does not object to the proposal on visibility grounds. The Inspector therefore considers that the site junction is unlikely to be unacceptably substandard and use of the access could be safely intensified to the extent proposed.

The Inspector concludes that the proposed development would cause no unacceptable loss of highway safety. It would comply with UDP Policies HG1, HG4.3 and HG4.8, which require development to make adequate parking arrangements for the off-street parking and manoeuvring of vehicles.

Conclusion

The Inspector has indicated that, notwithstanding their conclusion on the matters of character and appearance and highway safety, it is the harm the proposed development would cause in relation to the living conditions of nearby occupiers that leads to their decision. For the reasons given above and having regard to all other matters raised, the Inspector concludes that the appeal should be dismissed.