

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

Thursday, 23rd July, 2009

Start Time:- 9.00 a.m. for Site Visits

Start Time:- 10.40 a.m. for Meeting

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 2nd July, 2009 (herewith) (Pages 3 - 11)
5. Deferments/Site Visits (information attached) (Pages 12 - 13)
6. Visits of Inspection (report herewith) (Pages 14 - 46)
7. Development Proposals (report herewith) (Pages 47 - 188)
8. Report of the Director of Planning and Regeneration Service (herewith) (Pages 189 - 196)
9. Probity in Planning (documentation herewith) (Pages 197 - 224)
10. 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:-

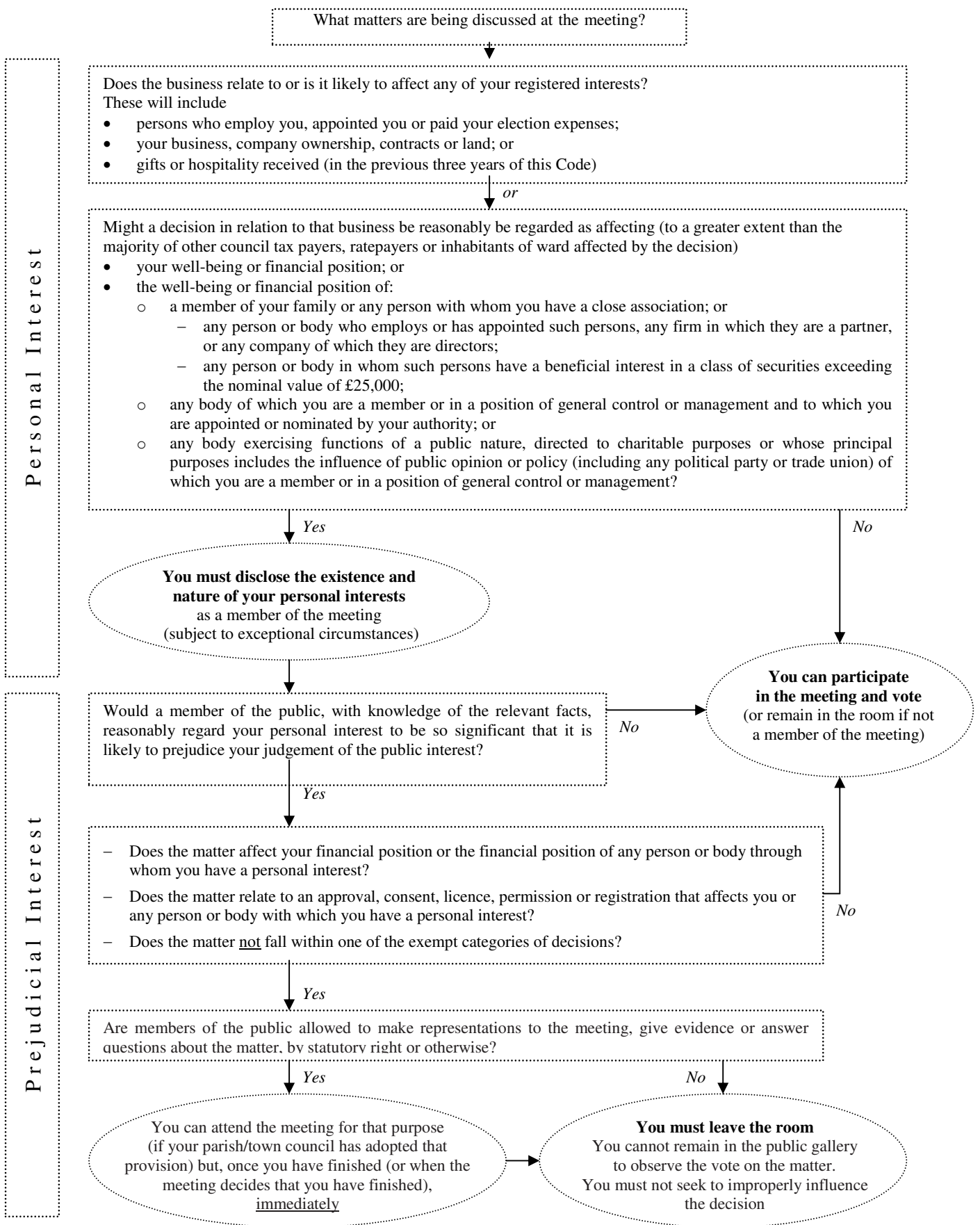
(Please continue overleaf if necessary)

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, 2nd July, 2009

Present:- Councillor Pickering (in the Chair); Councillors Akhtar, Austen, Burton, Dodson, Kaye, Littleboy, McNeely, Nightingale, Parker, G. A. Russell, Turner, Walker and Whysall.

Apologies for absence were received from Councillors Atkin and Smith.

23. DECLARATIONS OF INTEREST

Councillor Austen declared a personal interest in application RB2009/0506 (erection of light industrial building (B1(c) use class) with associated offices, service yard, parking, 5m lighting columns and gatehouse at former Beighton Colliery, Chesterfield Road, Swallownest for J. F. Finnegan Ltd.) on the grounds that she was a member of Aston-cum-Aughton Parish Council.

24. MINUTES OF THE MEETING OF THE PLANNING REGULATORY BOARD HELD ON 11TH JUNE, 2009

Resolved:- That the minutes of the meeting of the Planning Regulatory Board held on 11th June, 2009, be approved as a correct record for signature by the Chairman.

25. DEFERMENTS/SITE VISITS

Resolved:- That consideration of the following application (contained within the Development Proposals reports) be deferred pending a visit of inspection to the site, the Chairman and Vice-Chairman approving arrangements:-

RB2009/0274 - Requested by Councillor Littleboy to allow Members to view this urban greenspace site and to consider the suitability of the proposals in this location.

26. 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:-

- Change of use to aesthetics and cosmetics teaching and treatment at Unit B12 Taylors Court, Parkgate for Evemia Ltd. (RB2009/0456)

Mrs. S. Barker (Applicant)

- Erection of light industrial building (B1(c) use class) with associated offices, service yard, parking, 5m lighting columns and gatehouse at former Beighton Colliery, Chesterfield Road, Swallownest for J. F. Finnegan Ltd. (RB2009/0506)

Mr. I. Giller (Applicant)

- Change of use from sandwich shop (use class A1) to hot food takeaway (use class A5) at 54A Kilnhurst Road, Rawmarsh for Mr. D. Robson (RB2009/0536)

Mr. D. Robson (Applicant)

Mr. Beavers (Objector)

- Demolition of existing bungalow and erection of 4 No. three storey dwellinghouses and 1 No. two storey dwellinghouse at Springvale House, Pleasley Road, Whiston for Mr. A. E. D. Walters (RB2009/0559)

Mr. C. Davies (Objector)

(3) That application RB2009/0274 be deferred pending a visit of inspection to the site, the Chairman and Vice-Chairman approving arrangements requested by Councillor Littleboy to allow Members to view this urban greenspace site and to consider the suitability of the proposals in this location.

(4) That applications RB2009/0456, RB2009/0571 and RB2009/0632 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. Three additional letters of representation, received after the agenda had been printed, were also read out in relation to application RB2009/0632.

(5) That application RB2009/0506 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 and subject to two additional conditions relating to water run off limitation and finished floor levels.

(6) That application RB2009/0536 be refused for the reasons listed in the report.

(7) That application RB2009/0559 be refused for the reasons listed in the report and subject to a further reason regarding the Flood Risk Assessment. Three additional letters of representation, received after the

agenda had been printed, were also read out.

27. COURTESY CONSULTATION FROM SHEFFIELD CITY COUNCIL IN RESPECT OF CHANGE OF USE FROM PUBLIC HOUSE TO GROUND FLOOR OFFICES AND 3 NO. FLATS AT FIRST FLOOR LEVEL WITH NEW EXTERNAL STAIRWAY AT 88 BLACKBURN ROAD, ROTHERHAM FOR MR. IAN ABBEY (RB2009/EN04)

Consideration was given to a report by the Director of Planning and Regeneration Services, which detailed a courtesy consultation from Sheffield City Council in respect of a change of use from Public House to Ground Floor Offices and 3 No. flats at first floor level with new external stairway at 88 Blackburn Road, Rotherham.

Resolved:- (1) That Sheffield City Council be thanked for the opportunity to comment on this application.

(2) That Sheffield City Council be informed that this Council did not wish to object to the above proposal.

28. DEVELOPMENT CONTROL PLANNING APPEALS REPORT

Further to Minute No. 17 of the meeting of the Planning Board held on 11th June, 2009, the report informed Members of the performance of the Development Control service related to planning appeals during 2008/2009.

In April 2004, the Government introduced BVPI 204, which measured the number of allowed appeals arising from refusals of planning permission. BVPI 204 did not include appeals against non-determination or appeals relating to planning enforcement, advertisement, listed building/conservation area consent, conditions and trees. The aim of this BVPI was to monitor whether there was an increase in planning applications refused as Planning Authorities strived to meet targets for BVPI 109, which is the number of planning applications determined within set time limits.

Previously, Planning Authorities with a poor appeal record were likely to lose an element of the Planning Delivery Grant, but now that this was not directly related to the speed of determining planning applications (PDG had been replaced by HPDG), this indicator was due to be dropped this year. However, the figure had also contributed to the annual CPA rating and so it was important to continue to monitor performance.

The report set out the annual out turns for appeal decisions, appeal rate, refusal rate, number of appeals, appeal performance for 2008/09 and appeals determined in 2008/09.

A review was to ascertain if there was a clear and genuine problem with the extent of development on garden land. The Government made a

commitment to consider action if the evidence disclosed a problem, provided that “a change of policy would not undermine our objectives on housing” (Baroness Andrews, House of Lords, 25th Nov 2008). The request for information sought to establish the amount of housing development on garden land, which at present could not be distinguished from other land classified as “previously-residential” in the Land Use Change Statistics, such as estate regeneration or conversions.

This was particularly relevant to Rotherham, as the saved UDP policy that relates to backland or tandem development and supported by Supplementary Planning Guidance, seems to have been given little weight by Inspectors in recent appeal decisions. In addition, PPS3 did not mention backland or tandem development (as it did in PPG3) and did not distinguish between previously developed land and existing gardens. Consequently, the Government had come under considerable pressure from Parliament to take action in the light of claims of inappropriate or excessive housing development on garden land. Evidence that nationally a genuine problem existed remained unclear, yet there remained a considerable sense of concern amongst Members of Parliament about what went on in their areas, which was why action was taken to review the data. The results were yet to be published.

The Planning Board welcomed this information and found the contents very informative.

Resolved:- That the report be received and information be noted.

29. APPEAL DECISION - AGAINST A REFUSAL OF A FULL PLANNING APPLICATION TO ERECT A TWO STOREY BUILDING WITH ROOMS IN ROOFSPACE AND DORMER WINDOW TO REAR TO FORM 2 NO. APARTMENTS ON THE LAND ADJACENT TO 33-39 BROOK ROAD, EAST DENE (RB2008/1022)

Consideration was given to a report by the Director of Planning and Regeneration Service which detailed an appeal against refusal of planning permission for the erection of a two storey building with rooms in roofspace and dormer window to rear to form 2 No. apartments on the land adjacent to 33-39 Brook Road, East Dene.

The Inspector dealing with the appeal indicated that “The dwellings along Brook Road are mostly 2 storey semidetached brick houses. The only exceptions to this are the dwellings immediately to the south west of the appeal site, namely Farm House (Nos. 33-39 Brook Road) and No. 33A Brook Road.” The Inspector was of the opinion that the development of the site would appear visually dominant and obtrusive in the street scene, when viewed along Brook Road. The Inspector was also of the opinion that the development of the side garden area of Farm House would be detrimental to the spacious setting of the host dwelling. The Inspector went on to state that the width of the appeal site along with the siting of the proposed building close to its neighbours, scale, mass and height

“...would appear cramped and out of keeping with the character and appearance of the area. As such, it would represent an overdevelopment of the site”.

Regarding the impact on neighbouring properties the Inspector considered that the new building would appear overbearing and dominant when viewed from within the dwelling at No. 41 and in its rear garden and would be detrimental to the outlook of these occupiers. The proposal would have a harmful impact on the appearance on No. 41 Brook Road.

The Inspector concluded that the new two storey building would be a dominant and obtrusive feature when viewed from Brook Road and considered that the proposed development would harm the living conditions of the occupiers of No. 41 Brook Road, with particular regard to outlook.

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

30. APPEAL DECISION - AGAINST REFUSAL OF PLANNING PERMISSION FOR THE INSTALLATION OF FLAGPOLE STYLE TELECOMMUNICATIONS ANTENNA AND ASSOCIATED EQUIPMENT CABINET ON ROOF AT 22 COLLEGE STREET ROTHERHAM (RB2008/1156)

Consideration was given to a report by the Director of Planning and Regeneration Service which detailed an appeal against the refusal of planning permission for the installation of a flagpole style telecommunications antenna and associated equipment cabinet on the roof at 22 College Street Rotherham.

The Inspector dealing with the appeal considered that given the discrete location of the proposed equipment cabinet and ancillary low level structures towards the rear of the roof, this equipment would not be seen from nearby streets or in wider views and would not have a harmful effect. However, the three proposed antennas, which would be disguised as a single flagpole, would stand at the front of the building with around 4.5 metres of the structure visible above the building from street level. In the Inspector's opinion the height and diameter of the flagpole would be out of scale with the host building making it appear visually dominant and as a result, it would be a very prominent feature in the streetscene.

The Inspector indicated that the flagpole would be seen in wider views along Effingham Street and across All Saints Square from Bridgegate, in juxtaposition with the Church of All Saints and such a relationship would be visually jarring, particularly when it would be seen in close proximity with the church spire from Effingham Street and College Street. Accordingly it would be harmful to the setting of the listed building, contrary to Policy ENV2.8 of the Rotherham Unitary Development Plan.

The Inspector commented that for similar reasons the antennas would be

visually dominant when seen from several viewpoints within the conservation area. Their appearance as a flagpole, even when displaying a flag, would not diminish their impact as the height and scale of the flagpole would make it stand out, rising well above the height of the building and acting as a focal point when seen from surrounding streets. He also considered that as an oversized element on an otherwise modest building the flagpole, rather than blending into the streetscene would appear obvious and incongruous and would therefore fail to preserve or enhance the character or appearance of the conservation area were contrary to UDP Policy ENV2.11.

Finally, the Inspector noted the appellant's arguments that the mast was necessary to provide 3G reception to residential and commercial users in central Rotherham and the appeal site was chosen in line with the advice in Planning Policy Guidance 8: Telecommunication. However, he concluded that these considerations would not outweigh the harm the proposal would cause the setting of the listed building and the conservation area.

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

31. APPEAL DECISION - AGAINST REFUSAL OF PLANNING PERMISSION FOR THE CONSTRUCTION OF A THREE-STORY BUILDING COMPRISING OF 2 COMMERCIAL UNITS AT GROUND FLOOR FOR USE WITHIN USES A2 (FINANCIAL AND PROFESSIONAL SERVICES) AND B1 (BUSINESS) AND 12 APARTMENTS ABOVE AT LAND AT MASBROUGH STREET, MASBROUGH (RB2008/1315)

Consideration was given to a report by the Director of Planning and Regeneration Service which detailed an appeal against the refusal of planning permission for the construction of a three-storey building comprising of 2 commercial units at ground floor for use within uses A2 (Financial and Professional Services) and B1 (Business) and 12 apartments above at land at Masbrough Street, Masbrough.

The Inspector dealing with the appeal indicated that she had considered all the other matters raised, including car parking provision and highway safety, but none changed her overall conclusion that the appeal should be allowed and planning permission be granted for the construction of 2 No. commercial units with A2 and B1 use, with 12 apartments above comprising three storeys at Masbrough Street in accordance with the terms of the application, Ref. RB2008/1315 and the plans submitted with it.

The Council proposed twelve conditions and three informatives should the application be approved, the Inspector agreed with eleven of the conditions and indicated that the three informatives relating to hours of construction were acceptable, but should be planning conditions so that they could be monitored and enforced.

With the above in mind, the Inspector stated that the appeal be allowed subject to the following conditions:-

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans: Site Location Plan; Ground Floor Plan (Drawing No. 1, Rev A); First Floor Plan (Drawing No. 2, Rev B); Second Floor Plan (Drawing No. 3, Rev B); Elevations (Drawing No. 5, Rev A; and, External Material Details (Drawing No. 6, Rev A) except as shall otherwise be agreed in writing by the Local Planning Authority.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to an approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. All vehicular accesses shall be via a dropped crossing facility and not radius as indicated on the submitted plans. No development shall take place until details of the dropped crossing facilities have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. When the proposed access has been brought into use, the existing access marked X on the attached copy plan shall be permanently closed and the kerb line/footway reinstated in accordance with the details to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development.
6. The building shall not be occupied until the area shown to be used by vehicles and for car parking on Drawing No. 1 Rev A has been drained and surfaced in accordance with the details to be submitted to and approved in writing by the Local Planning Authority, and that area shall not thereafter be used for any purpose other than vehicular access and car parking.
7. 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 encouraged. The approved scheme shall be implemented in accordance with a timescale to be agreed in writing by the Local Planning Authority.
8. Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3

metres either side of the centre line of the water main which crosses the site.

9. 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 in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
10. The premises at ground floor shall be used for A2 (Financial and Professional Services) and B1 (Business) uses only and for no other purpose within the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
11. Construction work shall not begin until a scheme for protecting the proposed apartments from noise from the neighbouring highways and commercial and industrial uses has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the apartments are occupied.
12. Prior to the commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the highway and details of the measures^{s?} to be employed to remove any such substance from the highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be used for the duration of the works.
13. Prior to the commencement of development details of the measures to be employed to minimise dust during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be used for the duration of the works.
14. All construction works and ancillary operations, including deliveries, shall only be carried out between 0800hrs and 1800hrs Monday to Friday, 0900hrs to 1300hrs on Saturday and not at all on Sunday or a Bank Holiday.

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

32. APPEAL DECISION - AGAINST ENFORCEMENT NOTICE TO REMOVE THE UNAUTHORISED DECKING AT THE REAR OF 96 WATSON ROAD, KIMBERWORTH PARK WITH A COMPLIANCE PERIOD OF 3 MONTHS (RB2008/1576)

Consideration was given to a report by the Director of Planning and

Regeneration Service which detailed an appeal against an Enforcement Notice to remove the unauthorised decking at the rear of 96 Watson Road, Kimberworth Park with a compliance period of 3 months.

The Inspector considered that the use of the decking area would appear intrusive to adjoining residents because of its depth, width and scale and in his opinion, the amenity value of neighbouring gardens was considerably reduced, due to excessive overlooking caused by the use of the elevated decking.

The Inspector found that the decking, as erected, conflicted with policy ENV3.1 of the Rotherham Unitary Development Plan due to its height and scale and for these reasons, the Inspector concluded that the decking had a materially harmful effect on nearby residents' living conditions.

Resolved:- That the decision to dismiss the appeal be noted and the Enforcement Notice be upheld with a compliance period of three months.

33. UPDATES

The following update information was provided:-

(a) Planning Conference

Councillor Pickering referred to a Planning Conference he and the Vice-Chairman had attended two weeks ago.

He described the elements of discussion which focused on flooding, house building and procedures regarding appeals and called in applications.

Discussion ensued on issues relating to affordable housing, training, Transform South Yorkshire, Section 106 Agreements and social housing.

Additional copies of the information regarding appeals was now available for all Members of the Planning Board.

(b) 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)

The Development Control Manager referred to the notification that had been received from Government Office confirming they were happy for this application to be determined locally. Planning permission had been issued on 30th June, 2009.

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

VISITS OF INSPECTION – THURSDAY, 23RD JULY, 2009

1. **RB2009/0274 - Conversion and extension of existing buildings to form kennels with associated dog runs, erection of two storey facilities block with car parking and erection of stables with associated paddock & manege at land between Green Lane and Brinsworth Road, Brinsworth for Mr. M. Grayson.**

Agent:- John Box Associates, 166 Moorgate Road, Moorgate, Rotherham. S60 3BE

Requested By:- Councillor Littleboy

Reason:- To allow Members to view this urban greenspace site and to consider the suitability of the proposals in this location.

2. **RB2009/0522 - Details of the erection of a three storey apartment block (21 apartments), 4 No. two storey dwelling houses with rooms in roof space and dormer windows and 10 No. two storey dwelling houses (reserved by outline RB2006/0402) at land at Hollowgate Avenue, Wath upon Dearne for Wath Natural Stone Ltd.**

Agent:- F. J. Architects Ltd., Southgate House, Southgate, Wakefield. WF1 1TL

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

Reason:- To allow Members view in light of the level of local interest and impact on local residents.

<u>No.</u>	<u>Application</u>	<u>Area</u>	<u>Arrival</u>	<u>Departure</u>
1.	RB2009/0274	Brinsworth	9.15 a.m.	9.35 a.m.
2.	RB2009/0522	Wath	10.00 a.m.	10.20 a.m.

Return to Town Hall at approximately 10.40 a.m.

SITE VISIT NO. 1 (Approximate time on site - 9.15 a.m.)

RB2009/0274

Conversion and extension of existing buildings to form kennels with associated dog runs, erection of two storey facilities block with car parking and erection of stables with associated paddock & manege at land between Green Lane and Brinsworth Road, Brinsworth for Mr. M. Grayson.

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) Rotherham UDP:
ENV5.1 Allocated Urban Greenspace
ENV3.1 'Development and the Environment'
ENV3.7 'Control of Pollution'
 - b) Other Material Considerations:
PPG24 Planning & Noise
2. For the following reasons:

It is considered that due to the existing site landscaping, and subject to the recommended conditions the proposed development will have no materially adverse effect on the character of the Urban Greenspace and will improve the overall quality and setting of the Urban Greenspace in accordance with the policy ENV5.1 'Allocated Urban Greenspace', which seeks to enhance the local Urban Greenspace provision.

It is also considered that by way of the nature of the development and the relatively isolated location away from residential properties, the proposed kennels, stabling, office and night watchman's accommodation will not be detrimental to neighbouring amenity in terms of noise, smells and general disturbance and in accordance with ENV3.7 'Control of Pollution' which seeks to minimise the adverse effects of nuisance, disturbance and pollution associated with development.

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

Conditions 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

[PC27*] 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.

03

Except in the case of emergency, all doors and windows to the dog kennels shall be kept closed between 19.00 and 07.00 hours.

04

[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 within a timescale agreed, in writing, by the Local Planning Authority.

05

[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.

06

No more than 45 dogs shall be boarded on site at any one time.

07

[PC52] 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.

08

The proposed night watchman's accommodation hereby permitted shall be occupied by a single member of staff working at the kennels and shall not be used solely as a separate residential dwelling.

09

In accordance with the submitted noise impact assessment, the bedroom window to the sleeping accommodation should be double glazed using 4mm and 6mm float glass with an air gap of 12mm to 20mm.

10

Before the commencement of development, details of an acoustic fence around the proposed dog run shall be submitted to and approved by the Local Planning Authority, and the approved details shall be implemented before the development is brought into use and thereafter retained and maintained.

11

[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.

(Drawing number JBA.2733.104.A)(received 14 April 2009)

(Drawing number JBA.2733.103) (received 6 March 2009)

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

[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.

03

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

04

[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'.

05

[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'.

06

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

07

[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'.

08

The site is not considered appropriate for a separate residential unit.

09

In the interest of the future amenities of staff and in accordance with ENV3.7 'Control of Pollution'.

10

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

11

[PR97] To define the permission and for the avoidance of doubt.

Informatives:

1 INF 11A Control of working practices during construction phase

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) 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).

(ii) 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.

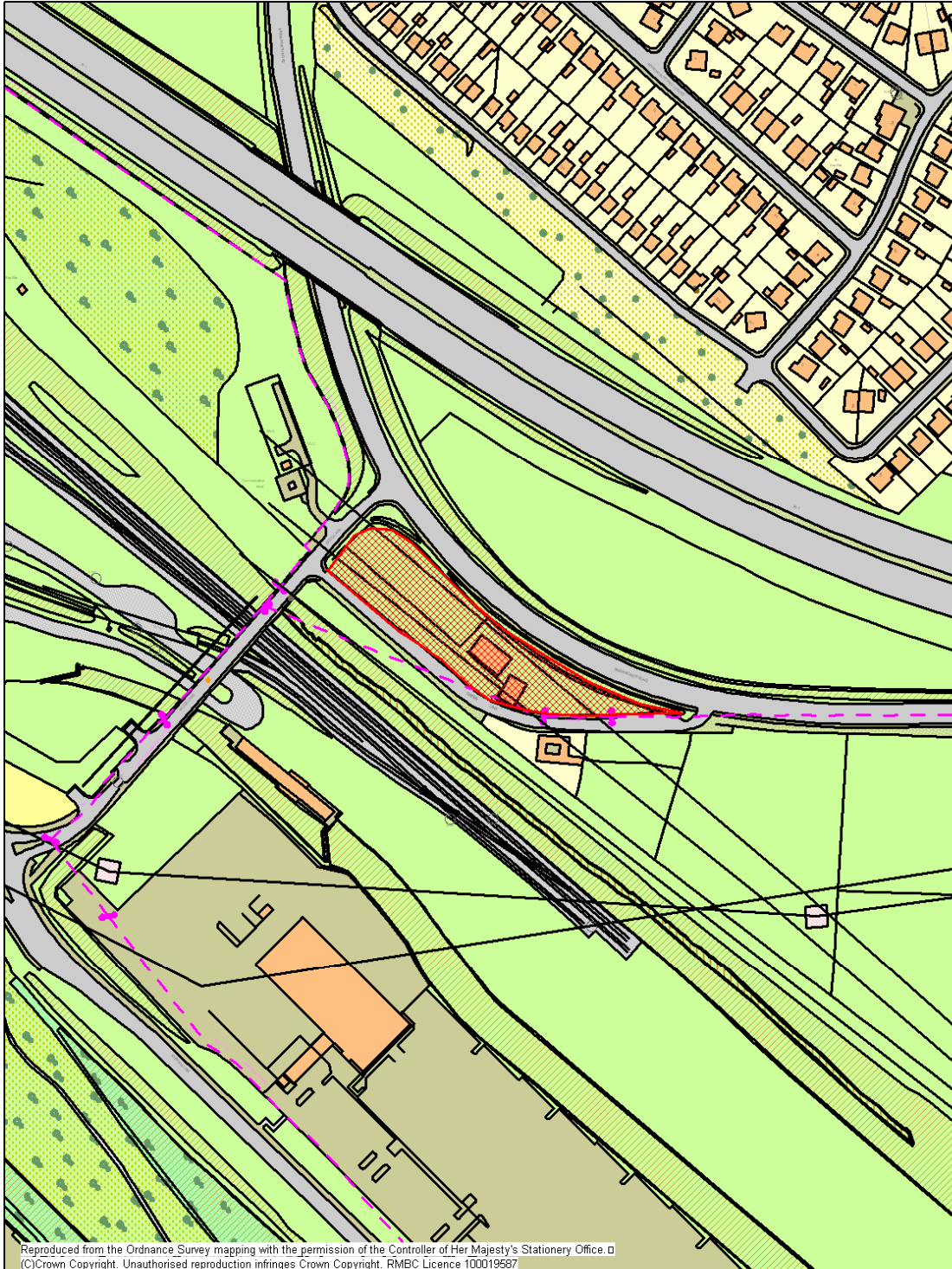
(iii) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway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

2 Management Informative

The applicant is advised to comply with the management regime for handling the dogs submitted to the Council's Community Protection Unit which includes the daily routine for feeding times, walking times, and bedding down procedures and state the

measures to be undertaken to reduce noise from barking dogs to a minimum. The walking of dogs shall be carried out away from residential properties as far as reasonably practicable so as to minimise the noise potential for barking to affect neighbouring properties.

The applicant is advised that the weekly emptying of the waste bins for carrying dog faeces may cause smell problems on site. Consideration should be given to having the trade bins emptied on a twice weekly basis or using the cesspools for disposing of the dog faeces.



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Scale 1:2500

Date: 17/06/2009

Map Centre: □
441593,389125

Rotherham MBC

Envt & Devt Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □
□



Background

RB1982/1533 - Erection of building to provide pig rearing unit – REFUSED, Reason for refusal:

“The site is prominently situated within the narrow stretch of open countryside between Catcliffe and Brinsworth, within an area of “Green Wedge” and an area of Medium Landscape Value shown on the Draft District Plan for the Catcliffe/ Orgreave/ Treeton area. In such circumstances the Local Planning Authority considers that the erection of the building proposed, and of the establishment of a pig rearing unit, would be inappropriate in this location and visually detrimental to the character and appearance of the locality. “

RB1983/0580 - Use of land for storage of caravans – REFUSED, Reason for refusal unknown.

RB1997/0658 - Outline application for the erection of a bungalow – REFUSED, Reason for refusal:

“The site is allocated for Urban Greenspace purposes in the Rotherham Unitary Development Plan, Deposit Version. Policies ENV5.1 and ENV5.2 apply.

Policy ENV5.1 Allocated Urban Greenspace states:-

“Development that results in the loss of Urban Greenspace as identified on the Proposals Map will only be permitted if:

- (i) alternative provision of equivalent community benefit and accessibility is made, or*
- (ii) it would enhance the local Urban Greenspace provision, and*
- (iii) it would conform with the requirements of Policy CR2.2, and*
- (iv) it does not conflict with other policies and proposals contained in the Plan in particular those relating to heritage interest.”*

Policy ENV5.2 Incidental Urban Greenspace states:-

“Development that results in the loss of small areas of Urban Greenspace not identified on the Proposals Map, will only be permitted in the same circumstances outlined in Policy ENV5.1.”

The proposed dwelling does not meet the above criteria and the Council do not consider there are special circumstances to justify overriding the above policies. “

RB1997/1037 - Change of use from agricultural to milk storage and delivery business and siting of refrigerated container - GRANTED CONDITIONALLY.

RB2004/0849 - Notice of intention to erect an agricultural storage building - PRIOR APPROVAL NOT REQUIRED. This building has not been erected.

Site Description & Location

The site of application is a disused dairy located just off Brinsworth Road, in an area of Urban Greenspace between the M1 motorway and the Sheffield Parkway. In

recent years the site has suffered severely from anti social behaviour such as fly tipping, and the Council's Streetpride Unit have blocked off part of Green Lane in order to prevent further fly tipping. The current state of the land is very poor with car tyres and other hazardous waste dumped around the site.

The nearest residential property is located approximately 180m to the east of the site.

Proposal

The applicant seeks permission to convert and extend two existing buildings to form 23 small dog kennels, 18 large dog kennels, 8 holding kennels, 2 family kennels and two isolation kennels. In addition, a 5 horse stable and tack room would be built at the western end of the site, constructed in blockwork. The stable block is intended to be used for livery purposes to house up to five horses. A new two storey facilities block containing a waiting area, staff room, offices and night watchman accommodation would be built adjacent to the proposed dog kennels. It would be constructed in metal sheeting and blockwork and would be 9m wide by 13m long with an overall height to the roof ridge of 12.5m.

Dog runs and a manage are proposed on site for the external exercise of the dogs and horses. The plans have been amended following concerns from the Transportation Unit about the location of proposed parking on the site. The parking area (7 No. spaces) has been moved closer to Wood Lane to encourage vehicular access from this road, which in road safety terms is more desirable. In addition, a parking and turning area would be provided to the south of the proposed stables.

The applicant's design and access statement states that:

- Boundary trees and bushes are to be retained to mask the development from the adjacent New Brinsworth Road. Further trees and bushes are to be planted along Wood Lane boundary and in any holes in the existing boundary hedge.
- The public transport network gives good access to local townships and villages and more major areas such as Sheffield.

The applicant's Noise Impact Assessment states that:

- The conclusion of a BS 4142 assessment is that the results are 'a positive indication that complaints are unlikely'.
- It is recommended that the residential accommodation has appropriate double glazing installed.

Finally the applicant has submitted details in respect of the proposed management regime for the walking of dogs, and details of kennel cleaning and waste disposal.

Development Plan Allocation and Policy

01 Unitary Development Plan:

The site is allocated Urban Greenspace in the Adopted Unitary Development Plan.

Policy ENV5.1 Allocated Urban Greenspace:

“Development that results in the loss of Urban Greenspace as identified on the Proposals Map will only be permitted if:

(i) alternative provision of equivalent community benefit and accessibility is made, or

(ii) it would enhance the local Urban Greenspace provision, and

(iii) it would conform with the requirements of Policy CR2.2, and

(iv) it does not conflict with other policies and proposals contained in the Plan in particular those relating to heritage interest.”

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, scale... and site features.

ENV3.7 ‘Control of Pollution’ states that “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”.

02 Other Material Planning Considerations

PPG24

Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such 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.

Publicity

The application has been advertised in the press and on site, and adjoining occupiers were notified in writing. Three letters of objection have been received. The objectors state that:

- The Greenspace should be kept as an open buffer zone.*
- The kennels will create excessive noise.*
- The kennels will prevent further residential development in the area.*
- The burning of dog excrement could create smells.*

The applicant and one objector have requested the right to speak at the meeting.

Consultations

Transportation Unit:

The revised layout has been amended so that parking / manoeuvring facilities are to be provided for the stables adjacent to Wood Lane and that the proposed car park for the boarding kennels has been relocated closer to Wood Lane. I am of the opinion that this will encourage vehicular access from Wood Lane which in road safety terms is more desirable. This being the case, I have no objections to the granting of planning permission in a highways context subject to relevant conditions.

Environmental Health:

“The application site is situated in an urban green space area in a field which currently houses a former dairy. There are residential properties some distance away, being approximately 180 metres from Nursery Bungalow on New Brinsworth Road to the east, then beyond this lies the Waverley Public House (210 m) and the residential development on Olivers Way, (250m away). To the north of the site lies the M1 motorway and then residential housing developments on Brinsworth Road, Derwent Crescent and Kynance Crescent. The nearest house on Derwent Crescent is approximately 140 metres away from the site boundary.

This Service is concerned about noise from the barking dogs causing disamenity to the occupiers of the Nursery Bungalow/ Waverley Public House to the east of the site. Although the development is some distance away from residential housing there is the potential for dog barking to affect the enjoyment of their gardens particularly in the summer months. Noise mitigation in terms of noise from the barking of dogs needs to be considered.

A specialist noise consultant, S & D Garritt Ltd, was employed to assess the impact of this additional noise source on nearby residential properties. The report was carried out bearing in mind the guidance of BS4142:1997.

The report concluded that the results are a positive assessment that complaints are unlikely. However a noise may be distinguishable and disturbing even though its level is not significantly greater (or is lower than) the background level. Therefore measures to reduce the likelihood of barking affecting the closest residential houses should still be considered.

The noise report was requested by Environmental Health to address the concerns relating to the use of the site for a 24 hour watchman who must sleep on site who may be exposed to excess noise from the motorway and from dogs barking. As the proposal covers sleeping accommodation for staff, regard in the noise report was given to Planning Policy Guidance Note (PPG) 24 “Planning and Noise”. The noise report recommends that the bedroom window to the sleeping accommodation shall be double glazed using 4mm and 6mm float glass with an air gap of 12mm to 20 mm.

The Service has no objections to the proposal subject to the relevant conditions.

Appraisal

In this instance it is considered that there are four main areas of consideration:

- (i) The appropriateness of development on land allocated Urban Greenspace.*
- (ii) The impact upon traffic and highway safety.*
- (iii) The appropriateness of night watchman accommodation.*
- (iv) The impact upon residential amenity*

(i) The appropriateness of development on land allocated Urban Greenspace:

Policy ENV5.1 seeks not only to preserve Urban Greenspace, but where possible enhance it. The site of application is currently in a poor visual state, containing a number of ramshackle metal agricultural buildings. It appears that the site suffers severely from anti social behaviour and fly tipping. In recent months the Council's Streetpride Unit have blocked off part of Green Lane in order to prevent further fly tipping. The current state of the land is very poor with car tyres and other hazardous waste dumped around the site. With this in mind it is considered that the site has limited benefit to the local community and detracts from the otherwise pleasant semi-rural environment.

In terms of the proposed new development it is considered that the reuse of the land will help bring life back into this neglected site and could go a long way to reducing anti social behaviour and fly tipping. The buildings will have a simple agricultural appearance and subject to the use of dark green cladding will only have a minimal visual appearance in the New Brinsworth Road streetscene. In view of the above it is considered that the proposed development would enhance this area of Urban Greenspace and would comply with Policy ENV5.1 of the UDP. It is not considered necessary to assess the proposal against policy CR2.2 'Safeguarding Recreation Areas' as the land is not currently or has not previously been used as a sports ground, allotment or playing field.

(ii) The impact upon traffic and highway safety:

The site is accessed off Green Lane, a typical narrow rural road. Whilst the road is narrow, it will be able to handle the level of traffic generated by such a use. The applicant has submitted an amended plan indicating an amended layout and vehicular turning area, to encourage traffic to access the site via Wood Lane. It is considered that such a layout will prevent traffic problems and provide ample parking for such a business.

In terms of the sustainability of the location, the site is well served by a frequent bus service, although realistically the majority of customers would bring their dogs by car.

(iii) The appropriateness of night watchman accommodation:

It is considered that the provision of night watchman accommodation is appropriate in this instance. The proposed stables and dog kennels is a significant operation that will require 24 hour surveillance in case of an on site incident or potential criminal activity. The night watchman accommodation is only very basic and being located in an agricultural building I do not consider that it has the potential to become a permanent dwelling. The site being close to the M1 motorway suffers from air and noise pollution, although a large mature hedge and other vegetation may help to

minimise noise from the M1. The Council's Environmental Health team have confirmed that they have no objections to a night watchman's flat and as such it is considered that the location is acceptable in this instance.

The night watchman accommodation should also help to create some surveillance of Green Lane, thus reducing the problems of fly tipping and anti social behaviour.

(iv) Impact on residential amenity:

The proposed development has the potential to generate significant noise disturbance caused by dogs and horses on site. With this in mind the Council requested a detailed noise impact assessment to assess the potential detrimental impact upon nearby properties. The report has concluded that the level of noise externally would be acceptable, especially when any dog noise would be heard against the backdrop of the M1 motorway and Sheffield Parkway.

It should also be noted that the nearest property to the kennels themselves is some 140m away, on the other side of the M1 motorway, such that the impact of the proposed development is considered to be acceptable. The nearest property on the southern side of the M1 motorway would be approximately 180m away from the site and it is not considered that general activities of staff or clients or noise from dogs would unduly impact on residential amenity. With regard to the issue of smells generated from the site, it is understood from the applicant's submission that all excrement will be stored in sealed bags and removed from the site weekly. This process should prevent unpleasant odours and no burning of the excrement will take place. An informative is recommended in this respect and it is noted that the Director of Environmental Health has no objections to the proposal subject to relevant conditions.

Conclusion

It is considered that due to the existing site landscaping, and subject to the recommended conditions the proposed development will have no materially adverse effect on the character of the Urban Greenspace and will improve the overall quality and setting of the Urban Greenspace in accordance with the policy ENV5.1 'Allocated Urban Greenspace'.

It is also considered that by way of the nature of the development and the relatively isolated location away from residential properties, the proposed kennels, stabling, office and night watchman's accommodation will not be detrimental to neighbouring amenity in terms of noise, smells and general disturbance and in accordance with ENV3.7 'Control of Pollution'.

SITE VISIT NO. 2 (Approximate time on site - 10.00 a.m.)

RB2009/0522

Details of the erection of a three storey apartment block (21 apartments), 4 No. two storey dwelling houses with rooms in roof space and dormer windows and 10 No. two storey dwelling houses (reserved by outline RB2006/0402) at land at Hollowgate Avenue Wath-upon-Dearne for Wath Natural Stone Ltd

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO APPROVE RESERVED MATTERS

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 H3 'Managing the release of land in support of interventions to address failing housing market'

Policy T1 'Personal Travel Reduction and Modal Shift'

- (ii) Local Planning 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,

ENV3.2 'Minimising the Impact of Development' states that: "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impacts on the environment..."

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

HG4.3 'Windfall Sites' states that: "The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in light of their (i) location within the existing built up area and compatibility with adjoining uses; and (ii) compatibility with other relevant policies and guidance."

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

T6 'Location and Layout of Development' states that: "the location of new development, the Council will have regard to the increasing desirability of reducing travel demand..."

b) Other relevant material planning considerations

National Policy

Planning Policy Statement 1 'Delivering Sustainable Development'

Planning Policy Statement 3 'Housing'

Planning Policy Statement 6 'Town Centres'

Planning Policy Guidance 13 'Transport'

Supplementary Planning Guidance

Housing Guidance 7: 'Security'

2. For the following reasons:

The details provided are acceptable in terms of the scale, layout, appearance of development and the landscaping of the site and are consistent with the outline planning permission (RB2006/0402) and the conditions attached to it.

The proposals are considered to represent an acceptable form of development that would not be out of keeping with the existing character of the area. Furthermore, by virtue of its size, scale, form, design, mass, siting and materials the proposed dwellings would not have a detrimental effect on the visual amenities of the area and would successfully assimilate into the streetscene. Consequently, the proposed development is considered to be in full compliance with the above policies. It is further considered that the proposed development makes a positive impact on the environment by achieving an appropriate standard of design.

Overall it is considered that the proposal accords with UDP Policy T6 'Location and Layout of Development' and PPG13. Furthermore, it is considered that adequate provision is made for parking within the confines of the site and that the proposed development will not result in a situation hazardous to highway safety.

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

Conditions Imposed:

01

[PC52] 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.

02

[PC37] No hedges or trees 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.

03

[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 occupation of the hereby approved dwellinghouses.

04

[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.

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 inclusion of semi-mature sized trees.
- 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.

06

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

[PC29] Before the development is commenced road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority.

08

[PC94] 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.

09

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

10

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

11

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.

12

Prior to the commencement of development, a scheme shall be submitted to and approved in writing by the Local Planning Authority, detailing how biodiversity gain measures will be incorporated within the development. The measures shall thereafter be carried out in accordance with those approved details.

13

[PC97] The approval hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority. (Drawing numbers A(10)-01 Rev E, A(20)-01 Rev D, A(30)-01 Rev A, A(10)-06, A(10)-07) (received 30 April and 7 July 2009).

14

[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.

Reasons for Conditions:

01

[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'.

02

[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'.

03

[PR44] In the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

04

[PR24B] 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'.

05

[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'.

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

[PR29] No details having been submitted they are reserved for approval.

08

[PR94] In order to promote sustainable transport choices.

09

In the interest of satisfactory and sustainable drainage.

10

To ensure that the development can be properly drained.

11

To ensure that no surface water discharges take place until proper provision has been made for its disposal.

12

In the interest of incorporating biodiversity gain measures in accordance with PPS9.

13

[PR97] To define the permission and for the avoidance of doubt.

14

[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'.

Informatives

01

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

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

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

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

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

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

02

It is recommended that the scheme is developed to achieve Secured by Design (SBD) certification. More information on SBD can be found at www.securedbydesign.com. The website contains a design guide for new homes that

offers advice on secure site layout and on secure windows and doors. Also on the website is an application form for the scheme.

03

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

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

04

Based on the Desk Study Report, the site has been assessed as posing a low risk, however, it is recommended that prior to the redevelopment, and an intrusive investigation should be carried out in order to further assess these potential risks. A combination of trial pits and shallow boreholes have been recommended to investigate the site including the areas identified as potential sources. Installations for gas monitoring are also recommended. The investigation would allow any potential relic foundations to be identified and ground conditions to be characterised. The applicant is advised to contact Heather Baker for more information on investigations relating to contamination (01709) 823122

Background

The site has been subject of one relevant previous planning application for residential development

RB2006/0402 - Outline application for residential development – Granted Conditionally 11 May 2006.

This permission was not subject of any Section 106 requirements.

Site Description & Location

The application site is situated at the end of Hollowgate Avenue, Wath upon Dearne. Hollowgate Avenue is a long residential street consisting predominantly of early 20th Century terraced properties. The site is accessed via a track at the end of the Avenue and is currently occupied by Wath Natural Stone Ltd and a substantial bungalow property sited at a right angle to the terraced properties.

The current use of the site is a stone merchant supplying stone to domestic and commercial sectors and consists of a number of small utilitarian shed type buildings and large areas of open storage. In addition the substantial bungalow property (occupied by the owner of the site) is included within the application boundary.

Directly to the north-east of the site is an area of open space and a public footpath/former towpath linking Manvers and Wath. To the north-west is the Derwent Way Industrial Estate and in particular a large industrial building forms the boundary with part of the site. Surrounding the site on the remaining boundaries are terraced properties on Hollowgate Avenue and modern detached dwellings on Moorlands View.

The site contains a number of substantial trees, predominantly these are located around the site boundaries although there are a number of trees in around the existing bungalow. The site slopes down from the South-west to the north-east.

Proposal

This is a reserved matters application subsequent to the approved outline planning permission which was granted on 11 May 2006.

The application proposes the erection a total of 35 dwellings consisting of the following:

- *One block of 21no. one bedroom apartments situated close to the northern boundary of the site;*
- *4no. two storey semi-detached dwellings with dormer windows and rooms in the roofspace;*
- *10no. two storey town houses.*

The access to the site is at the end of Hollowgate Avenue and it is proposed to continue the existing road at a width of 5.5 metres with a 2 metre footway. It is proposed to fell the existing Weeping Willow tree which occupies a position adjacent to the existing track access to the stone yard.

The properties are of a modern design and utilise a palate of materials including facing brickwork and render.

Apartments

The apartment block is situated close to the northern boundary of the site. The building two storeys in height with dormer windows and rooms in the roofspace and provides 21no. one bedroom apartments. It is dual aspect and faces onto the footpath which runs parallel to the site to the north with a distance to the site boundary varying between 200mm and 2.5 metres. A car park is located adjacent to the apartment block which provides a total of 21 parking spaces plus 2 visitor spaces.

A small communal activity area is shown adjacent to the south-east of the apartment block.

Plots 9-14

These plots consist of 6no. town houses located adjacent to the eastern boundary of the site. The plots are two storeys in height with gable features on each of the end properties. The end plots (9 and 14) are three bedroom properties and are each provided with 2no. car parking spaces. The remainder of these plots are 2 bedroom properties and are each provided with 1no. car parking space.

The terrace plots at 9-14 are located between 9.2 metres -10 metres from the boundary with the neighbouring properties on Moorland View and have private rear garden areas to the rear.

Plots 1-8

These plots consist of two pairs of semi-detached dwellings (Plots 1-4) which have dormer windows and rooms in the roofspace. Plots 5-8 consist of a row of 2 storey town houses.

These properties are situated adjacent to the access road to the site and have private rear garden areas with a length between 10.4 metres-11.8 metres

It is proposed to provide a footpath link from the development site (located between the apartment block and Plots 9-14) to the adjacent footpath/towpath. Each of these plots are provided with 1no. car parking space.

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

Design and Access Statement - This document concludes that National, strategic and local policy objectives are to promote brownfield development. This is a key element in achieving sustainable development. The applicant's strategic decision to re-use an existing building helps to promote these objectives. The document also concludes that the proposal will not have any detrimental impact on the local highway network, and the proposals should be viewed favourably from the aspect of local resident amenity given the existing use of the site. The proposals are considered to be of an appropriate design, suitable for its immediate context and will contribute positively to making a better place for the local community.

Arboricultural Survey – This document concludes that the trees surveyed were generally found to be in a fair condition. Some trees (including a mature weeping willow) were recommended for retention and some were recommended for removal.

Some works were recommended for reasons of public safety and to ensure the long term health of the trees. A comprehensive method statement in order to ensure the continued health of the trees is recommended.

Desk Study Report for Site Investigation – The report concludes that the site has been given a Low Risk assessment of perceived risk. However, prior to redevelopment appropriate investigations should be undertaken to ensure that the site does not require any further decontamination prior to the commencement of development.

Development Plan Allocation and Policy

a) Development Plan

(i) RSS

Policy SY1 'South Yorkshire sub area'

Policy H3 'Managing the release of land in support of interventions to address failing housing market'

Policy T1 'Personal Travel Reduction and Modal Shift'

(ii) Local Planning 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,

ENV3.2 'Minimising the Impact of Development' states that: "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impacts on the environment..."

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

HG4.3 'Windfall Sites' states that: "The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in light of their (i) location within the existing built up area and compatibility with adjoining uses; and (ii) compatibility with other relevant policies and guidance."

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

T6 'Location and Layout of Development' states that: "the location of new development, the Council will have regard to the increasing desirability of reducing travel demand..."

Other Material Considerations

National Policy

Planning Policy Statement 1 'Delivering Sustainable Development'

Planning Policy Statement 3 'Housing'

Planning Policy Statement 6 'Town Centres'

Planning Policy Guidance 13 'Transport'

Supplementary Planning Guidance

Housing Guidance 7: 'Security'

Publicity

The application was advertised by way of site and press notices on 14 May 2009. In addition, individual letters were sent to local residents on 8 May 2009.

Nine letters of objection and a petition containing 52 signatures have been received. The grounds of objection are as follows:

- There is insufficient parking for existing residents on Hollowgate Avenue - the proposed development will make the parking situation worse;
- Through traffic and construction traffic would cause disturbance to residents;
- Hollowgate Avenue is already congested and due to parked vehicles becomes a one way road, the development will make this congestion worse and will result in a hazard to highway safety;
- Hollowgate Avenue residents already experience problems due to parking on the road including access for refuse vehicles, emergency vehicles and delivery

vehicles, this will be made worse if the amount of traffic using the road is dramatically increased by further residential development;

- Insufficient car parking is proposed for the new dwellings as most of the residents will not be one car families;*
- The loss of trees will be detrimental to the visual amenity of the area;*
- Local schools are already over-subscribed, the new development will put further strain on such local services;*

Two letters of support have been received from local residents who consider that the proposed development would improve Hollowgate Avenue by removing the stone yard and creating jobs when the houses are being constructed.

Five requests for a right to speak at the planning board have also been received.

A copy of all letters of representation will be available in the Member's Room prior to the Meeting.

Consultations

Yorkshire Water has no objections subject to the imposition of relevant conditions.

Environmental Health has no objections to the proposal subject to conditions. The conditions recommended in relation to ground investigations cannot be imposed as they were not on the outline permission.

Trees and Woodlands Officer has no objections to the application subject to standard planning conditions.

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 issues in the determination of this application include the scale of the development, appearance and layout of the development proposed for the site, the impact on the character of the area and surrounding environment and whether the details are within the ambit of the outline planning permission for the site and the conditions attached to it.

The principle of residential development of this site is established by the outline consent (reference RB2006/0402) which was granted conditionally on 11 May 2006. The current application seeks approval for details of the appearance, layout and scale of development and the landscaping.

Scale and massing of development

The outline consent relating to this site is not subject of any conditions or restrictions relating to the density/amount of development. This reserved matters application seeks permission for 35 dwellings consisting of the following:

- 21no. one bedroom apartments;*
- 10no. two storey terraced dwellings;*
- 2 pairs of semi-detached dwellings with rooms in the roofspace and dormer windows.*

The site covers an area of 0.5ha and the density of the development equates to 70 dwellings per hectare.

Paragraph 47 of Planning Policy Statement 3 (PPS3) states that:

“Density is a measure of the number of dwellings which can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.”

Whilst the density of this development is relatively high at 70 dwellings per hectare the character of Hollowgate Avenue is also high density terraced housing. Whilst the development on Moorland View is much lower density this development consists of detached dwellings only and was constructed during the late 1990's, to replicate a development of a similar density is not considered to represent efficient use of the application site.

The proposal is not considered to conflict with the advice given in PPS3 Housing which indicates that schemes should have regard to the characteristics of the surrounding area and that schemes should be efficient in terms of land use. Therefore having regard to the mix of units, it is considered that the amount of development is acceptable in principle.

The proposed development is a mix of 2 storey and 2 ½ storey properties in the form of townhouses, semi-detached dwellings and one block of apartments.

The apartment block is two storeys in height with rooms in the roofspace and has a height of 10.4 metres. The impact of the height of the apartment block is somewhat mitigated as it is sited (i) adjacent to an existing industrial building; (ii) in the corner of northern corner of the site away from any of the existing/surrounding residential properties and (iii) the site slopes from south west-north east meaning that the apartment block is located on the lower lying part of the site.

The surrounding residential areas are predominantly two storeys in height although the terraced dwellings on Hollowgate Avenue have traditional roof heights (being higher than more modern floor to ceiling heights) allowing for the eaves height and rooflines to follow those of the existing terrace properties on Hollowgate Avenue. The proposal is considered to reflect the guidance set out in ENV3.1 'Development and the Environment'.

Appearance and layout

In terms of the layout of the proposal, the majority of the plots have rear outlooks of 10 metres. Whilst plot nos. 9-12 have rear outlooks of approximately 9.2-9.8 metres in length, it is considered that there is adequate separation distances with 33-37 Moorland View (in excess of 20 metres) and the garden areas of these neighbouring properties are significantly in excess of 10 metres which will prevent a loss of privacy.

The apartments are located adjacent to the north-east boundary of the site, with windows within 1.5 metres of the site boundary. Beyond the north-east boundary of the site is a public footpath/former towpath and as such the position of habitable room windows will not result in prevention of future development as this site is safeguarded as Urban Greenspace and provides an important link between Wath and Manvers. The positioning of windows overlooking this area is, in fact considered to have security benefits by overlooking a public area and creating natural surveillance. The apartments are considered to have a usable amenity area that is approximately 130 square metres in area and in addition a gated access is provided to the adjacent public footpath providing a link to a recreational route/area. The proposals are not considered to overlook any of the surrounding plots. It is therefore considered that the overall siting of the proposals would be in keeping with the character of the locality and would therefore be in accordance with Policy ENV3.1 'Development and the Environment'.

In terms of design and appearance of the development, it should be noted that the existing site is a commercial stone yard which is located within a predominantly residential area. The existing buildings on site are of a poor quality and are utilitarian in appearance. Overall, the commercial premises have a negative impact on the residential environment in general and the development of the site for residential purposes will undoubtedly improve the appearance of the locality.

The overall visual appearance of the proposal is considered to be of a good standard that will contribute to the regeneration of the surrounding area. The rooflines are stepped downward within the site to reduce the visual impact of the development. Overall, the properties are of a modern style but includes traditional elements such as brick detail heads and cills, gable features on the end terrace dwellings and regular fenestration. The dormer windows in the apartment block and semi-detached dwellings are of a small scale and traditional in design with pitched roofs.

The proposals are considered to represent an acceptable form of development that would not be out of keeping with the existing character of the area. Furthermore, by virtue of its size, scale, form, design, mass, siting and materials the proposed dwellings would not have a detrimental effect on the visual amenities of the area and would successfully assimilate into the streetscene. Consequently, the proposed development is considered to be in full compliance with the policies defined above and it is considered that the development makes a positive impact on the environment by achieving an appropriate standard of design.

Highways Issues

The comments made by local residents in terms of existing parking problems on Hollowgate Avenue are noted and the applicant has provided a schedule of existing vehicular movements to the existing commercial use on the application site. This supporting information details the following movements:

- 15-30 deliveries and collections per week consisting of rigid and articulated HGV's, 45ft trailers, wagons and vans. Existing delivery hours are between 7.45 and 17.30 hours;
- 30-40 customers per week all in private vehicles consisting of private cars and vans.

The existing use of the application site is a commercial operation located within a residential area and the access to the site is not considered to be ideal taking into account the on street parking which currently occurs on Hollowgate Avenue and the size and number of HGV movements each week on a permanent basis.

The site access via Hollowgate Avenue was considered as part of the outline planning permission and the issue under consideration is whether the amount of car parking provision and highway layout is acceptable. In general the site is considered to be in a sustainable location within the residential area of Wath with good access to a range of public transport. In addition, a condition to secure a scheme to encourage the use of sustainable methods of transport is recommended.

In terms of car parking provision, a total of 39no. car parking spaces are provided on site. This comprises:

- 1 space per apartment plus 2 visitor parking spaces;
- 1 space per two bedroom dwelling; and
- 2 spaces per three bedroom dwelling.

The transportation section considers this to be an adequate level of car parking on site. In addition, the removal of a commercial use in this residential location is considered to be beneficial to highway safety on Hollowgate Avenue.

Overall it is considered that the proposal accords with UDP Policy T6 'Location and Layout of Development' and PPG13. Furthermore, it is considered that adequate provision is made for parking within the confines of the site and that the proposed development will not result in a situation hazardous to highway safety.

Trees

An Arboricultural Survey has been submitted in support of this application. The Survey includes details of 43 individual trees, 2 hedges and a group of Cherry trees. There are a number of trees around the boundary of the site, most of which are classed as retention category C (low quality and value but in an adequate condition to be retained until new planting could be established).

The proposed site layout shows the retention of 3 poplar trees on the western boundary of the site, however, 2 of these trees have been removed. The remainder of the trees on site are shown to be removed. In particular, local residents have

raised concerns relating to the removal a Willow tree close to the existing access track to the stone yard.

The outline planning permission identified the access point to the site from Hollowgate and it is not possible that the willow tree could be retained with a new access road at 5.5 metres in width from Hollowgate Avenue.

Whilst the Arboricultural Survey identifies the willow as having a high amenity value the Council's Arboriculturalist has confirmed that the tree has been subject of inexpert pruning and is not worthy of a Tree Preservation Order to secure its retention. Indeed, the Council's Arboriculturalist has confirmed that none of the trees on this site are considered to be worthy of protection by way of a tree preservation order.

A condition is recommended to secure a detailed landscape scheme which will include replacement planting in accordance with UDP Policy ENV3.4 'Trees, Woodlands and Hedgerows'.

Affordable Housing

This is a reserved matters application pursuant to outline consent reference RB2006/0402. The outline permission was not subject to any Section 106 requirements in relation to affordable housing and as a result there is no requirement for the provision of affordable housing as part of this approval.

Although the planning policy position relating to Affordable Housing at the time of the outline planning permission should have required 7.5% affordable housing provision, the outline planning application did not include any indicative details of numbers of dwellings and it was assumed that the development size would fall under the then threshold of 25 dwellings. On this basis there was no requirement for the provision of affordable housing through a Section 106 Agreement. Although the number of dwellings now exceeds that threshold, as there was no Section 106 Agreement attached to the outline permission, there can be no requirement for such contributions at this stage.

Conclusion

The details provided are acceptable in terms of the scale, layout, appearance of development and the landscaping of the site and are consistent with the outline planning permission (RB2006/0402) and the conditions attached to it.

The proposals are considered to represent an acceptable form of development that would not be out of keeping with the existing character of the area. Furthermore, by virtue of its size, scale, form, design, mass, siting and materials the proposed dwellings would not have a detrimental effect on the visual amenities of the area and would successfully assimilate into the streetscene. Consequently, the proposed development is considered to make a positive impact on the environment by achieving an appropriate standard of design.

Overall it is considered that the proposal accords with UDP Policy T6 'Location and Layout of Development' and PPG13. Furthermore, it is considered that adequate

provision is made for parking within the confines of the site and that the proposed development will not result in a situation hazardous to highway safety.

On the basis of the above information, the application is recommended for approval subject to the safeguard of the recommended conditions.

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
23RD JULY, 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.

INDEX PAGE

<p>RB2009/0218 Application for Lawful Development Certificate re: existing use of land and buildings as a scrap metal storage and recovery yard, comprising the receipt and storage of scrap items of predominantly metal content, the breaking and dismantling of these items, and the recovery of metal, their storage and despatch for use elsewhere at Rainbow Works, Station Road, Wath upon Dearne for C. Soar & Sons.</p>	<p>Page 50</p>
<p>RB2009/0238 Demolition of existing barn & outbuildings and erection of a pair of semi-detached dwellinghouses at Kilnhurst Hall Farm, Glasshouse Lane, Kilnhurst for Mr. G. Schofield.</p>	<p>Page 55</p>
<p>RB2009/0431 Two storey front extension and first floor extension with room in roofspace & dormer window to front to form flat over retail (A1) shop at 4A Mansfield Road, Rotherham Town Centre for Mr. S. Hussein.</p>	<p>Page 60</p>
<p>RB2009/0499 Outline application for the erection of 14 No. dwellinghouses and garages with details of layout & scale at land at Westfield Road, Parkgate for Fitzwilliam Wentworth Estates.</p>	<p>Page 68</p>
<p>RB2009/0500 Erection of two storey building to form children's day nursery at land at Manvers Way, Manvers for Childcare Business Partnership.</p>	<p>Page 79</p>
<p>RB2009/0527 Details of the erection of 31 No. three storey dwelling houses and 30 No. two storey dwelling houses (reserved by outline RB2007/0475) at land at Denman Road, Wath upon Dearne for Guinness Northern Counties.</p>	<p>Page 91</p>

<p>RB2009/0616 Partial demolition of wall to facilitate widening of access from Church Street and landscaping/improvements to church yard including pruning & removal of various trees (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) at All Saints Minster, Church Street, Rotherham Town Centre for RMBC (EDS).</p>	<p>Page 108</p>
<p>RB2009/0617 Conservation Area Consent for demolition of part of wall to facilitate widening of access steps to church yard at All Saints Minster, Church Street, Rotherham Town Centre for RMBC (EDS).</p>	<p>Page 118</p>
<p>RB2009/0648 Retrospective application for the erection of detached dwellinghouse with detached double garage (amendment to previously approved under RB2008/0631) at Plot 1, 66 Moorgate Road, Moorgate for Clough Developments Ltd.</p>	<p>Page 123</p>
<p>RB2009/0663 Installation of 2 No. dormer windows to front and extension to existing dormer window at The Bungalow, First Avenue, East Dene for Mr. Kamran Arif.</p>	<p>Page 130</p>
<p>RB2009/0675 Change of use of premises to Council depot including erection of gatehouse, installation of above ground fuel store, erection of security fencing, lighting & cctv, formation of hardstanding & salt storage areas and landscaping of site (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) at land & buildings off Sandbeck Way, Hellaby for RMBC (Project Management).</p>	<p>Page 135</p>
<p>RB2009/0684 Application for non-compliance with Conditions 2 (Opening Hours) and 3 (Window Display to be provided at all times) imposed by RB2009/0318 to allow 24 hours opening and no display window to be provided at 97 Main Street, Bramley for Parkcare Homes (No 2) Ltd.</p>	<p>Page 156</p>
<p>RB2009/0687 Demolition of existing building and erection of single storey modular building for use as offices and meeting rooms at Wales Parish Rooms, Wales Road, Kiveton Park for Wales Parish Council.</p>	<p>Page 165</p>
<p>RB2009/0723 Single storey side extension at Hebron, Dean Lane, Dalton for Mrs. J. Chilton.</p>	<p>Page 169</p>

<p>RB2009/0734 Erection of a two storey & single storey building comprising 5 No. flats with associated parking and bin store at land to rear 293 Kimberworth Road, Kimberworth for Robinson Court Properties Ltd.</p>	<p>Page 176</p>
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**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
23RD JULY, 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.

RB2009/0218

Application for Lawful Development Certificate re: existing use of land and buildings as a scrap metal storage and recovery yard, comprising the receipt and storage of scrap items of predominantly metal content, the breaking and dismantling of these items, and the recovery of metal, their storage and despatch for use elsewhere at Rainbow Works, Station Road, Wath upon Dearne for C. Soar & Sons.

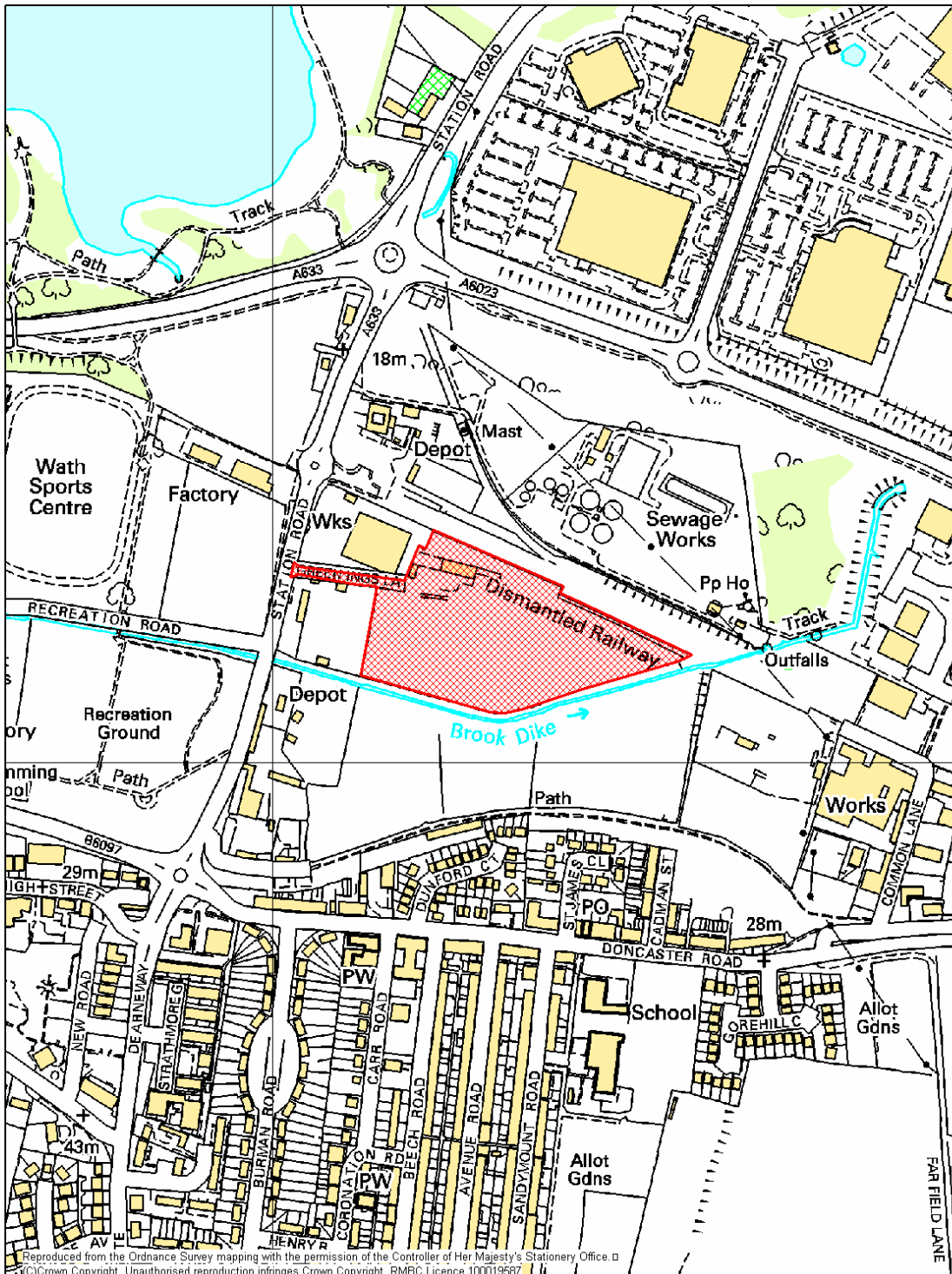
RECOMMENDATION: That a Certificate of Lawfulness be granted pursuant to S.191 TCPA 1990.

On 20 February 2009 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

Based on the evidence submitted by the applicant and in the absence of any realistic evidence to the contrary it has been shown that on the balance of probability the claimed use has taken place for 10 years or more prior to 20 February 2009 and that a lawful use of the site for scrap metal storage and recovery yard has been established.

First Schedule

Use of land and buildings as a scrap metal storage and recovery yard, comprising the receipt and storage of scrap items of predominantly metal content, the breaking and dismantling of these items, and the recovery of metal, their storage and despatch for use elsewhere between the hours of 07.00 hours to 17.00 hours (Mondays to Fridays), 08.00 hours to 13.00 hours (Saturdays) and no working on Sundays.



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Background

WD1960/940 – Outline application for scrap metal yard – Granted Conditionally 27/04/1960. Condition 2 reads:

“No development shall take place without prior written approval of the Local Planning Authority with respect to matters relating to the surface stability at the same time of the proposed development, the siting, design and external appearance of the buildings and the means of access to the site.”

WD1965/5721 – Outline application for land for storing and processing scrap metal – Granted conditionally 16/02/1966. Conditions required a clear strip 31 feet wide at the side of the dike, an unclimbable fence, raising the land level by 5 feet, screening this area with forest trees and no surface water discharge to the dyke without approval.

WD1965/5726 – To erect store building and loading landing – Granted Conditionally 26/01/1966

WD1967/5993 – Proposed office, canteen and toilet facilities – Granted Conditionally 19/04/1967

Condition required no drainage to Brook Dyke without prior notification and approval and effective screening on the boundary by planting forest trees.

RB2007/1416 – Erection of workshops for scrap metal recycling - Withdrawn

Site Description & Location

The application site comprises approximately 3.06 ha (7.6 acres) of land on the east side of Station Road at Wath upon Dearne. The site lies to the south of the disused railway line, beyond which is Wath Waste Water Treatment Facility. The site lies to adjacent to Brook Dyke and within the 1:100 year Flood Plain.

The nearest residential properties to the site are those at Dunford Court to the south. The nearest residential curtilage is 108 metres and the nearest house is 111 metres from the southern boundary of the site.

The site has historically been used in connection with a scrap metal yard and at the time of the last site visit, the site consisted of large areas of hardstanding with areas which are clearly used for scrap metal storage. There is also a site cabin.

Proposal

The application is for a Lawful Development Certificate to regularise the use of the land as a scrap metal storage and processing yard.

Members will recall a previous application (RB2007/1416), subsequently withdrawn, which sought full planning permission for the erection of workshops to the scrap metal yard. However, a large amount of information was submitted with the planning application and it was unclear from the information what the lawful use of the site is.

The reference to 'outline' permissions in the submitted information for a use in 1960 and 1965 is confusing and it is not known which permission may have been implemented. In any event there are no subsequent reserved matters applications.

This application does not include any proposals for new workshops and is purely a Lawful Development Certificate.

In light of the degree of uncertainty in the documented planning status, an application for a LDC has been submitted. A sworn Statutory Declaration dated 28 January 2009 has been supplied by Mr Kevin Elvin who was employed by his father Mr J T Elvin from 1975 to 2007. The site was sold to C Soar and Sons in 2007.

The sworn Declaration confirms that the premises were acquired by Mr J T Elvin in 1960 and details from first hand involvement, the specific use of the premises for a continuous period from 1975 to 2007. From 2007 to date, the current owners C Soar and Sons have occupied the premises and have not sought to change or abandon the use from that which was in existence at the time of their acquisition.

The claimed planning lawful use of the premises is:

"Use of land and buildings as a scrap metal storage and recovery yard, comprising the receipt and storage of scrap items of predominantly metal content, the breaking and dismantling of those items and the recovery of metal, their storage and dispatch for use elsewhere."

Whilst no information has been submitted in support of the application detailing the level of use (i.e. hours of operation), the Council have obtained a copy of the current Waste Management Licence from the Environment Agency.

The Waste Management Licence refers to the T Elvin site and was transferred to C Soars in January 2007. As no evidence has been received from the applicant to disprove those hours of operation currently contained within the Waste Management Licence, it is not unreasonable to assume that the site should have been operating in accordance with the stipulations of the Waste Management Licence. The hours of operation included on the Waste Management Licence are as follows:

<i>Mondays to Fridays</i>	<i>07.00 hours to 17.00 hours</i>
<i>Saturday</i>	<i>08.00 hours to 13.00 hours</i>

These hours of operation are included within the First Schedule of the Lawful Development Certificate.

Publicity

The application was advertised in the press and on site on 5 March 2009, and neighbouring residents notified on 27 February 2009. The notification letter states that only comments on the lawfulness of the use are applicable and that comments on the principle of the development cannot be considered under this current application.

Three letters have been received from local residents which raise the following points in relation to the lawfulness of the use:

- *The application relies upon the site having been used continuously as described for the last 10 years without interruption. The site was under water in June and July 2007 and it is understood that no works were carried out at the site from April 2007 until September 2008. Also there has been no work on site from January to March 2009.*
- *Elvin's used light machinery together with breaking and moving of vehicles, where C Soars use much larger machines.*
- *Elvin's did not deal with hazardous waste from nuclear plant as Soars do.*

One letter has also been received from Councillor Atkin which states that there are concerns that the previous planning application dealt with dismantling 'nasties' and for a furnace. Councillor Atkin comments that the lawful use is not an issue as it is known personally that the site has been used for 40 years as a scrap yard.

Consultations

Transportation Unit has no evidence to prove or disprove the claim.

Appraisal

The applicants are seeking to demonstrate that the site has been used for a continuous period of 10 years or more, prior to submission of the LDC application on 20 February 2009 for the 'Use of land and buildings as a scrap metal storage and recovery yard, comprising the receipt and storage of scrap items of predominantly metal content, the breaking and dismantling of those items and the recovery of metals, their storage and dispatch for use elsewhere.'

The principle of the development is not an issue, and as such the allocation of the site in land use terms is somewhat irrelevant. Members merely have to consider the lawfulness of the use and whether the applicant has demonstrated on the balance of probability that the use has been undertaken for a period of ten years or more prior to 20 February 2009.

In terms of evidence, the applicant has provided sworn evidence from Kevin Thomas Elvin who was employed by J.T Elvin and Sons at the site identified on the attached plan from 1975 to 2007 and states that:

"Throughout my 32 years at THE SITE that is from 1975 to April 2007 it was continuously used for the receipt, storage, breaking and sorting of waste/redundant scrap goods of predominantly metal content and the recovery, storage and dispatch of recovered and sorted metals for sale."

The evidence shows that the site was used continuously from 1975 to April 2007 for the use described above. From 2007 to date, the current owners C Soar and Sons have occupied the premises and a statement from the applicant affirms that:

"... C Soar and Sons have occupied the premises and have not sought to change or abandon the use, from that which was in existence at the time of their acquisition."

In fact, during a visit to the site on 10 March 2009, it was noted and photographed that the site is currently being used for the storage and sorting of scrap metal.

Although neighbours have stated that the site was not used during periods of flooding in 2007 and that no works have taken place on site between January and March 2009, this is considered to be for a short period of time and influenced by environmental factors preventing the use of the site rather than intentional 'abandonment' of the use.

Conclusion

With regard to the lawful use of the site, it is concluded that based on the evidence submitted by the applicant and in the absence of any realistic evidence to the contrary it has been shown that on the balance of probability the claimed use has taken place for 10 years or more prior to 20 February 2009 and that a lawful use of the site for scrap metal storage and recovery yard has been established.

RB2009/0238

Demolition of existing barn & outbuildings and erection of a pair of semi-detached dwellinghouses at Kilnhurst Hall Farm, Glasshouse Lane, Kilnhurst for Mr. G. Schofield.

RECOMMENDATION: REFUSE

Reasons for Refusal:

01

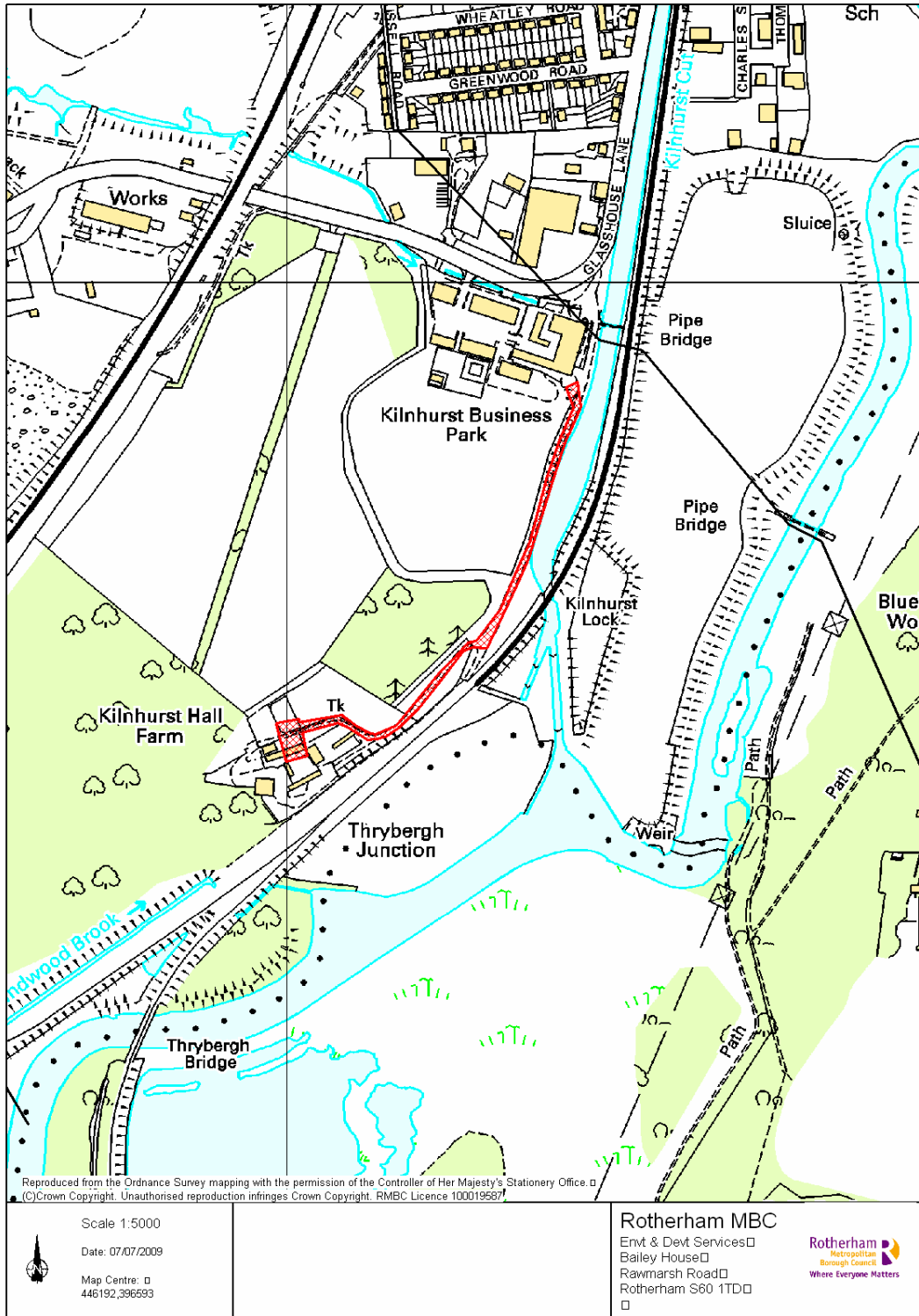
The Council considers that insufficient justification has been submitted to demonstrate a viable agricultural need for the proposed residential dwellings. The site of application is within the Green Belt wherein only development essential for the use of agriculture, forestry or open recreation will be allowed unless there are very special circumstances. No very special circumstances have been demonstrated in this instance and consequently the development would be in conflict with Development Plan Policy ENV 1 'Green Belt', and national policies PPG2 'Green Belt' and PPS 7 'Sustainable Development in Rural Areas'.

02

The Council also considers that the proposal would have an adverse effect on the openness of the Green Belt due to the significant size and scale of the proposed dwellings which are also located on the edge of the built frontage of the existing farm buildings and would thereby be in conflict with policy ENV 1 Green Belt of the Unitary Development Plan, and PPG2 Green Belts.

03

The Council further considers that the proposed dwellings would be located some 650 metres from the public highway, accessed via an unadopted track which is of limited width, lacking in separate pedestrian provision and for the most part unmade. The track is considered to be totally unsuitable to cater for the additional traffic (vehicular and pedestrian) likely to be generated from the development. Furthermore, in sustainability terms the development would rely heavily on car use, bearing in mind the poor accessibility for pedestrians, in conflict with PPS7 Sustainable Development in Rural Areas.



Background

In 1999 an application for a significant two storey extension to form lounge and dining room with bedrooms above was granted conditionally on the existing house which lies within the eastern section of this site (RB1999/0409).

The site is less than 0.5 hectares in size and does not require an EIA Screening Opinion.

Site Description & Location

The site relates to a collection of 9 buildings within a complex known as Kilnhurst Hall Farm. The farm lies to the south of the Kilnhurst Business Centre and is in close proximity to the Thrybergh junction of the Rotherham-Swinton railway loop. The easternmost building within the complex is used as a residential dwelling with the remaining buildings used predominantly for an agricultural business which include rearing of chickens and other associated poultry businesses.

The existing barn relates to a single storey building in the northern area of the site that is single storey in height and measures approximately 22 metres by 7 metres in size. It is currently disused and was last used to rear chickens which now appears to take place on a different area of the site.

The application site area is approximately 500 square metres which does not include the access road into the site which extends to Glass House Lane 500 metres away. The access road into the site is not surfaced and there are no pedestrian facilities available.

Proposal

The proposed development involves demolition of the existing single-storey barn, last used for the rearing of chickens and the erection of a pair of semi-detached dwellings to be used for residential purposes.

A brief Design and Access Statement was submitted with the application which states that the existing barn would be demolished with a pair of semi-detached residential dwellings to be erected. Each dwelling will be two storey with an approximate height of 9.5 metres and a length and width of 12 metres.

The Design and Access Statement indicates that the dwellings would be occupied by working family members who will contribute to the everyday running of the farm. No functional or financial need has been included within the statement.

Development Plan Allocation and Policy

01 UDP Policies

Development Plan Policies and guidance which relate to this proposal include Policy ENV1 'Green Belt'. This indicates that the construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:-

(i) agriculture and forestry

- (ii) essential facilities for outdoor sport and outdoor recreation,*
- (iii) limited extension, alteration or replacement of existing dwellings,*
- (iv) limited infilling in existing villages and limited affordable housing for local community needs.*

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".

Other Material Considerations

National Policies

Planning Policy Guidance Note 2: Green Belts (PPG2) Paragraph 3.2 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".

PPS7 'Sustainable Development in Rural Areas' indicates that permanent agricultural dwellings should only be allowed to support existing agricultural activities on well-established agricultural units providing that:

- There is a functional need*
- Need is for a full time worker, primarily employed in agriculture*
- The unit/activity has been established for at least 3 years and profitable for at least 1 of them and would remain so*
- The functional need could not be fulfilled by another existing dwelling, or any other existing accommodation suitable for occupation by the workers concerned*
- The protection of livestock from theft or injury may contribute to the need, although it will not by itself be sufficient to justify a permanent new dwelling*
- New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. Local authorities should take a realistic approach to the level of profitability, taking account of the nature of the enterprise*
- Agricultural dwellings should be of a size commensurate with the established functional requirement.*

Publicity

There are no relevant neighbours to inform by letter. A site notice was erected on Glass House Lane in March 2009. In addition the application has been advertised in the press.

No representations have been received.

Consultations

Transportation Unit – recommend refusal on the grounds of poor access and sustainability.

Appraisal

The site is within the Green Belt, the main issues to be considered are as follows:-

- Whether the applicant has established that there is a functional need for additional agricultural workers to live on the site (PPS7) and whether it has been demonstrated that it is essential for additional family workers to live on the site to enable the running of the farm, therefore demonstrating very special circumstances to justify a new dwelling in the Green Belt (PPG2).*
- Impact on the openness of the Green Belt (PPG2).*

In terms of amenity it is considered that the siting of the proposed dwellings are sufficiently distant from any neighbouring properties, such that the amenity of neighbouring residents would not be affected by the proposals. Other relevant issues are the design and appearance of the dwelling and the impact on highway safety.

Functional Need

Occupational dwellings should be assessed against the criteria and principles for new dwellings for an agricultural purpose as set out in Annex A of PPS7 'Sustainable Development in Rural Areas'. Annex A of PPS7 clearly sets out when new permanent dwellings should be allowed to support existing agricultural activities on well established agricultural units. It notes a number of tests that need to be met in order to justify an agricultural worker's dwelling in the countryside. These criteria are set out and assessed below and contain the evidence provided by the applicant to justify an additional agricultural worker's dwelling in this location.

In this instance no further justification has been provided within the Design and Access statement as to why there is a need for additional dwellings on this site and it is considered that the application fails to meet the criteria outlined in PPS7 in terms of functional need and the financial tests.

No evidence has been submitted indicating why any additional residential need could not be fulfilled by an extension to the existing dwelling or through a conversion or partial conversion of an existing building within the site. It is considered that the proposed dwellings would be in conflict with Policy ENV 1 Green Belts, PPG 2 Green Belts and PPS 7 'Sustainable Development in Rural Areas'.

Impact on the openness and character of the Green Belt

There are a total of 9 main buildings on the site including an existing residential dwelling. Whilst the site area is not visible from Glass House Lane it is considered that the replacement of a single storey barn with a pair of two storey semi-detached houses increases the overall massing, scale and built form of the site and would lead to further encroachment onto the openness and rural character of the Green Belt in conflict with national policies

Highway safety

The Transportation Unit have indicated that that the proposed dwellings would be located some 650 metres from the public highway, accessed via an unadopted track which is of limited width, lacking in separate pedestrian provision and for the most part unmade. The track is considered to be totally unsuitable to cater for the additional traffic (vehicular and pedestrian) likely to be generated. Furthermore, in sustainability terms the development would rely heavily on car use bearing in mind the poor accessibility for pedestrians.

Conclusion

In conclusion it is considered that the applicant has not demonstrated the need for additional residential dwellings on this site which lies in the heart of the Rotherham Green Belt. Consequently, the proposal does not show the exceptional circumstances required to build residential development in the Green Belt as indicated in Policy ENV 1 'Green Belts', PPG 2 'Green Belts' and PPS 7 'Sustainable Development in Rural Areas'. In addition the size and scale of the dwellings proposed is considered to have a material harm on the openness and character of the Green Belt (ENV 1) and the site has a poor access which is unsuitable to cater for the additional traffic (vehicular and pedestrian) likely to be generated. Having taken the above issues into consideration it is considered that the application should be recommended for refusal for the above reasons.

RB2009/0431

Two storey front extension and first floor extension with rooms in roofspace and a dormer window to front to form flat over shop at 4A Mansfield Road, Rotherham Town Centre.

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:

Local Planning Policy – Unitary Development Plan
HG4.3 Windfall Sites

The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in the light of their (i) location within the existing built-up area and compatibility with adjoining uses, and (ii) compatibility with other relevant policies and guidance.

EC5 Mixed Use Areas

Development within A1, A2, A3 & B1 would be acceptable in principle at Wellgate Mixed Use Area (MU23).

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.

2. For the following reasons:

It is noted that the residential element of the development is a departure from UDP Policy EC5. The Council considers that the principle of housing development within the Wellgate Mixed Use Area is acceptable.

The Council also considers that the proposal will not have an adverse effect on the visual amenities of the area by way of its scale, size and design; and will have no adverse effect on the residential amenities of adjoining occupiers on Wellgate and Mansfield Road by way of overshadowing, loss of privacy or overbearing nature, or be detrimental to the visual character or appearance of the property given its scale, size, mass and position. It is therefore considered that the proposal complies with UDP Policy ENV3.1.

Although the development may increase overshadowing to the first floor window of the adjoining jewellery shop, this is considered acceptable. Bearing in mind that no jewellery works take place within the premises, particularly at the first floor level, and there are windows on the front elevation of the jewellery shop, it is not considered that the proposed extension would result in a materially detrimental impact on this business use that would be 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

[PC52] 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.

02

Before the development is brought into use, the vehicular access fronting the site shall be closed and the kerblin reinstated in accordance with a scheme to be submitted and approved by the Local Planning Authority. The closure shall be carried out in accordance with any such approved details.

Reasons

01

[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'.

02

In the interests of road safety, to ensure that the access is closed immediately it is no longer required.

Informative

INF 23 Adverts

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

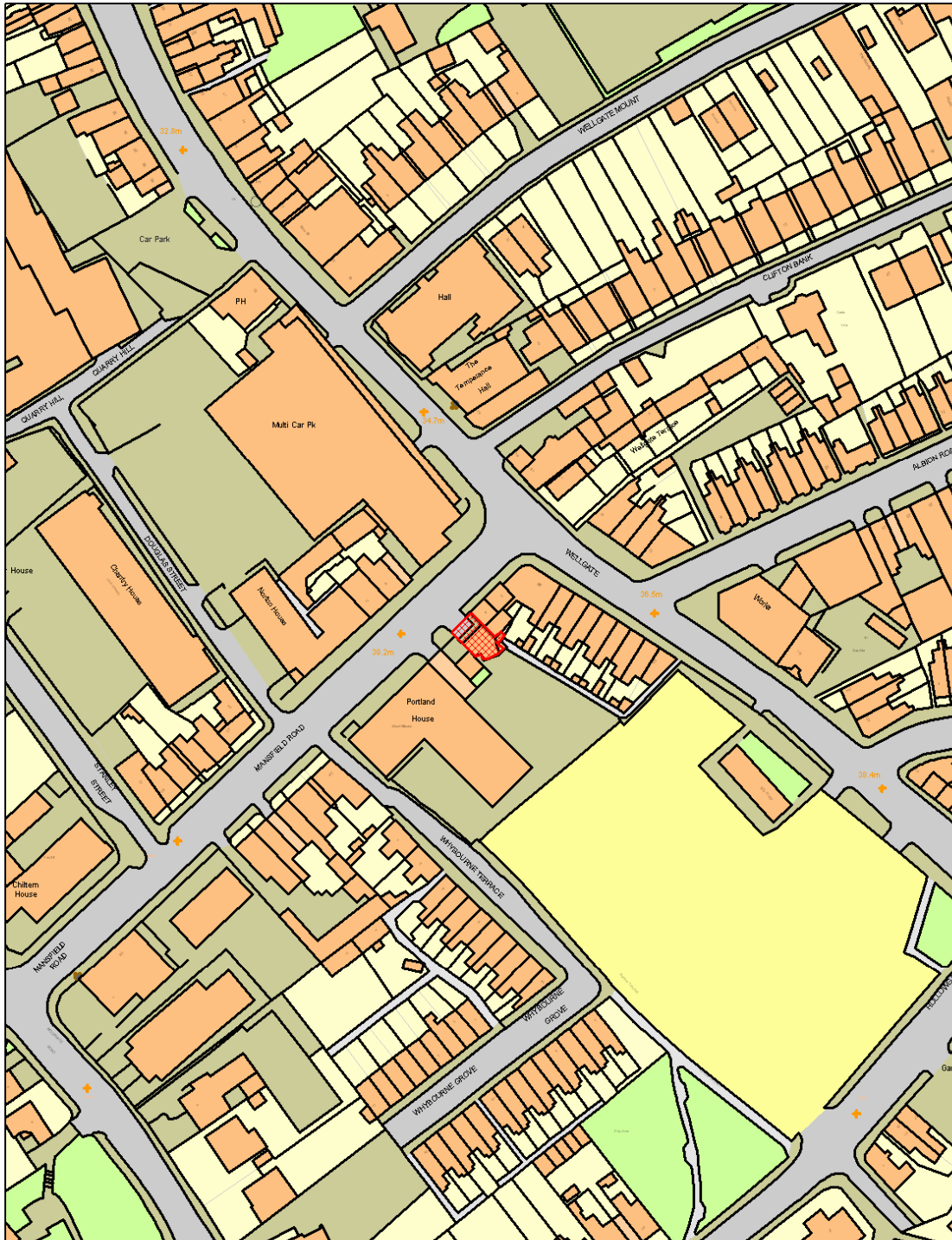
INF 11A Control of working practices during construction phase

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) 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.

(iii) 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.



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Background

RB2008/0773 - First Floor Extension with Rooms in Roof-space & Dormer Window to Front to form Flat over Existing Shop – Refused on 3/10/2008

The application was refused for the following reasons:

01

It is considered that by way of its size location and design the proposed extensions would constitute overdevelopment of the site, and would have an unacceptable overbearing and overshadowing effect on No. 4 Mansfield Road, thereby being materially detrimental to the amenities of the area in conflict with Policy ENV3.1 'Development and the Environment' of the Unitary Development Plan.

02

It is further considered that the proposed development would by way of its scale massing, siting and design, result in an incongruous element in the streetscene which would not be well integrated with or compliment the local area, thereby being inappropriate in its context. It is therefore considered that the development would fail to make a positive contribution to surrounding environment, in conflict with Policy ENV3.1 'Development and the Environment' of the Unitary Development Plan.

Site Description & Location

The application site is located within a mixed use area (MU23) in Rotherham Town Centre. The adjoining premises are for a mix of residential, retail and commercial use.

4A Mansfield Road is a single-storey flat-roof building located between No.4 Mansfield Road and Portland House. No.4 Mansfield Road is a two-storey semi-detached property used as a jewellery shop whilst Portland House is a 4 – 5 storey financial services office.

The application property currently is set back approximately 4.4 metres from No.4 Mansfield Road. The premises are currently vacant and in poor condition.

Proposal

A full planning permission for a two-storey front extension and first floor extension with room in roof-space and dormer windows to front to form a two-bedroom self-contained flat over a retail (A1) shop.

The proposed front extension projects approximately 3.9 metres from the original property and is set back 0.5 metres from No.4 Mansfield Road. The access to the flat will remain at the original building line adjacent to the boundary with No.4 Mansfield Road.

The first floor extension is proposed to be above the existing property and there are no windows proposed to the side or rear elevation. The proposal also consists of 2 number of roof lights to the rear and a pitched roof dormer window to the front.

A design and access statement is provided with the application.

Development Plan Allocation and Policy

The application site is allocated for mixed use within the adopted Unitary Development Plan (UDP).

Section 7.4 'Central Rotherham' of the UDP states that:-

"The reintroduction of housing to the area is an important part of the strategy for revitalising the town centre and will be encouraged. Residential space could be provided above commercial property or, on appropriate sites within the town centre and surrounding Mixed Use Areas, take the form of small-scale, high-density housing enclaves. As the Plan does not explicitly allocate sites for housing in the town centre, proposals will be considered in the context of Policy HG4.3."

The application should be assessed against UDP Policy HG4.3 'Windfall Sites', EC5 'Mixed Use Areas' and ENV3.1 'Development and Environment'.

UDP Policy HG4.3 'Windfall Sites' states that:-

"The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in the light of their (i) location within the existing built-up area and compatibility with adjoining uses, and (ii) compatibility with other relevant policies and guidance"

UDP Policy EC5 'Mixed Use Areas' states that:-

"Within Mixed Use Areas shown on the Proposal Map, a variety of land uses will be acceptable; the particular uses appropriate to each area and any limitations or requirements pertaining to these uses or their location being set out in UDP document."

Development within A1, A2, A3 & B1 would be acceptable in principle at Wellgate mixed use area (MU23)."

UDP Policy ENV3.1 'Development and 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."

Publicity

Neighbouring properties have been informed of the proposed development by letter on the 16th April 2009 and press/site notice on the 24th April 2009.

An objection from the jewellery shop at No.4 Mansfield Road has been received and is summarised as follows:-

- Obstruct gable end of the shop and signs
- Restrict daylighting to upper windows and glass door on the side elevation

- *Restrict view from the shop*
- *The shared pathway would be overshadowed and create tunnel effect*
- *Concern the potential resident would complaint on disturbance when the jewellery shop is busy*

A copy of the representation will be available in the Member's Room prior to the Meeting.

Consultations

The Council's Transportation Unit has been consulted on the application and has no objections to the proposal in a highway context subject to the closure of the existing vehicular access fronting the site.

The Council's Environmental Health Section has been consulted on the application and has no objections to the proposal.

Appraisal

The application is for the addition of extensions to create a flat above the existing A1 premises. The scheme consists of a two-storey front extension, first-floor extension with rooms in the roof-space and dormer window to front.

This application is a revised proposal to RB2008/0773 that has been refused previously. The main issues to be considered in the determination of the application are the principle of the proposal; the amenity of the neighbouring properties and street-scene.

The principle of proposal

The application site is within a Mixed Use Area (MU23) as allocated in UDP, therefore the proposed residential development is a departure from UDP Policy EC5. However, it is noted that there are a number of flats above shops which sets precedent within the area. Accordingly, it is considered that the proposed development would not have a detrimental effect on the surrounding uses and moreover will bring this vacant A1 unit back into a viable use.

In addition, Section 7.4 of UDP states that the reintroduction of housing would help in revitalising Rotherham Town Centre; it is therefore considered that the proposed residential space above commercial property is appropriate within Mixed Use Area (MU23) and is compatible with surrounding uses which meets the requirement of UDP Policy HG4.3.

The proposal does not include advertisement consent for the installation of advertisement signage; it is considered that the proposed shop front would not have detrimental effect to the shopping environment in principle. However a relevant informative is recommended to bring this matter to the applicant's attention.

The amenity of the neighbouring properties

It is noted there are a number of residential properties at Wellgate. It is considered that the proposed development would not have detrimental impact to the residential amenity by virtue of overlooking or overshadowing. As there are no windows proposed to the

side and rear elevation of the extension, it is considered that the proposal would not raise the issue of loss of privacy to the adjoining residential properties.

In regard to the appearance of the property, the scale of the dormer window to front has been reduced from that previously proposed under RB2008/0773 and the window on the first floor has been revised to match with No.86 Wellgate. The proposed development also sets back of 0.5 metres from the front boundary to be in similar building line as No.86 Wellgate.

Regarding the representation, the main concern raised is the overshadowing and overbearing impacts to the side elevation of No.4 Mansfield Road. No.4 Mansfield Road is a two-storey jewellery shop and there are windows on both front and side elevations to allow daylight into the premises, it is also noted that no jewellery works would be carried out within the premises. Although the proposed development would overshadow the side elevation of No.4 Mansfield Road, it is considered that the proposed development has reduced the impact on the retail property.

The second concern raised by No.4 Mansfield Road is future residential occupiers would complain about the potential disamenities when the jewellery shop is busy. It is considered that the business hours of jewellery shop would be primarily during the daytime and early evening hours which would have less of an impact on a future occupier of the residential property.

As such, the proposed extension would not result in a materially detrimental impact which would be sufficient to warrant a refusal of planning permission and the benefits on redeveloping this application site is recognised. It is also considered that the proposal addressed the previous reason of refusal and would not have detrimental impact to the street-scene, which meets the requirement of UDP Policy ENV3.1.

However, as the application is in close proximity to existing commercial premises, it is noted there is potential for disamenity from noise and dust generated by the proposed construction works; therefore a relevant informative is recommended to bring this matter to the applicant's attention.

Conclusion

In conclusion, it is considered that the proposal is of an acceptable standard and that design; siting and appearance follow that of buildings on Mansfield Road. The proposal is in compliance with the objectives and controls given in the Council's UDP, which would not have detrimental impact to the street scene or on the adjoining commercial properties.

It is also considered that this proposal which has been set back 0.5 metres from Mansfield Road and revised the design of windows to match with No.86 Wellgate, have addressed the Reasons of Refusal of RB2008/0773.

The proposal is therefore recommended for approval subject to reasonable and relevant planning conditions.

RB2009/0499

Outline application for the erection of 14 No. dwellinghouses and attached side garages with details of layout & scale at land at Westfield Road, Parkgate for Fitzwilliam Wentworth Estates.

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 Policies

POLICY H1: Provision and distribution housing indicates that the region's housing stock should be improved and increased to provide appropriate accommodation for all households wanting homes.

- UDP Policies

HG1 'Existing Housing Areas' indicates that the Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which have no adverse effect on the character of the area or on residential amenity, and are in keeping with the character of the area in terms of scale, layout and intensity of use.

HG4.3 'Windfall Sites' indicates that the Council will determine proposals with regard to their location within the built-up environment and compatibility with adjoining uses and other relevant policies and guidance.

HG5 'The Residential Environment' indicates that The Council will encourage best practice in housing layout.

ENV1.4 'Land Adjacent to the Green Belt' indicates that development should not have a dominant impact on the Green Belt.

ENV3.1 'Development and the Environment' indicates that development will be required to make a positive contribution to the environment.

- b) Other relevant material planning considerations

- National Policy

PPS3 'Housing' indicates that development should make efficient use of the available land.

PPS25 Planning and Flood Risk indicates that minimising flood risk is integral to good design.

Interim Planning Statement – Affordable Housing requests Affordable Housing provision of 25% when 15 units or above are provided.

2. For the following reasons:

In land use terms it is considered that the principle of residential development on this site is acceptable from a policy perspective and in accordance with the guidance in national policy PPS3 'Housing'. The scale of development comprising of traditional two storey houses with a regular gable-style roof design is considered to have an acceptable visual impact on the street scene and is also not considered to have a dominant or detrimental impact on the Green Belt to the west as recommended in Policy ENV1.4 'Land Adjacent to the Green Belt'. The density of the development at approximately 38 units per hectare is considered to be in keeping with the density of other residential development along Westfield Road and is considered to result in an efficient use of land. Although not all of the plots have rear gardens of 10 metres, a standard normally imposed, the width of all of the plots is approximately 10 metres which gives an acceptable level of private amenity space in accordance with Policy ENV3.1 'Development and the Environment'. The Transportation Unit considers that providing maximum parking standards are created, the scheme is therefore acceptable from a highway safety perspective. Whilst the site has limited surface water drainage capacity, Yorkshire Water have no objections to the proposals from a drainage perspective subject to conditions. It is considered that this meets the criteria outlined in PPS25 'Planning and Flood Risk'.

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

[PC00] Before the commencement of the development, details of the appearance, access and landscaping of the site shall be submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

02

A visibility splay 4.5 metres x site boundary shall be provided at the junction of Westfield Road and Greasbrough Road.

03

On site parking shall be in accordance with the Council's Maximum Parking Standards.

04

[PC94] 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.

05

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

06

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 before development commences.

07

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.

08

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.

09

[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.

10

[PC38]

The detailed plans to be submitted in accordance with this outline permission shall include a detailed landscape scheme. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

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

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

11

[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.

12

[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 as shown on the attached plan / 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.

13

[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 the first dwelling.

14

[PC52] 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.

15

[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.

(Drawing numbers amended plan P1 rev H)(received 24 June 2009)

16

The detailed elevational drawings and internal layout plans to be submitted in accordance with the requirements of this permission shall indicate a maximum of 14 dwellings within the site that are a maximum two storey height with no rooms in the roofspace.

Reasons for Conditions:

01

[PR00] No details of the matters referred to having been submitted, they are reserved for the subsequent approval of the Local Planning Authority.

02

In the interests of road safety.

03

In the interests of road safety.

04

[PR94] In order to promote sustainable transport choices.

05

In the interest of satisfactory and sustainable drainage.

06

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

07

To ensure that the development can be properly drained.

08

To ensure that no foul water discharges take place until proper provision has been made for its disposal.

09

[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'.

10

[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'.

11

[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'.

12

[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'.

13

[PR44] In the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

14

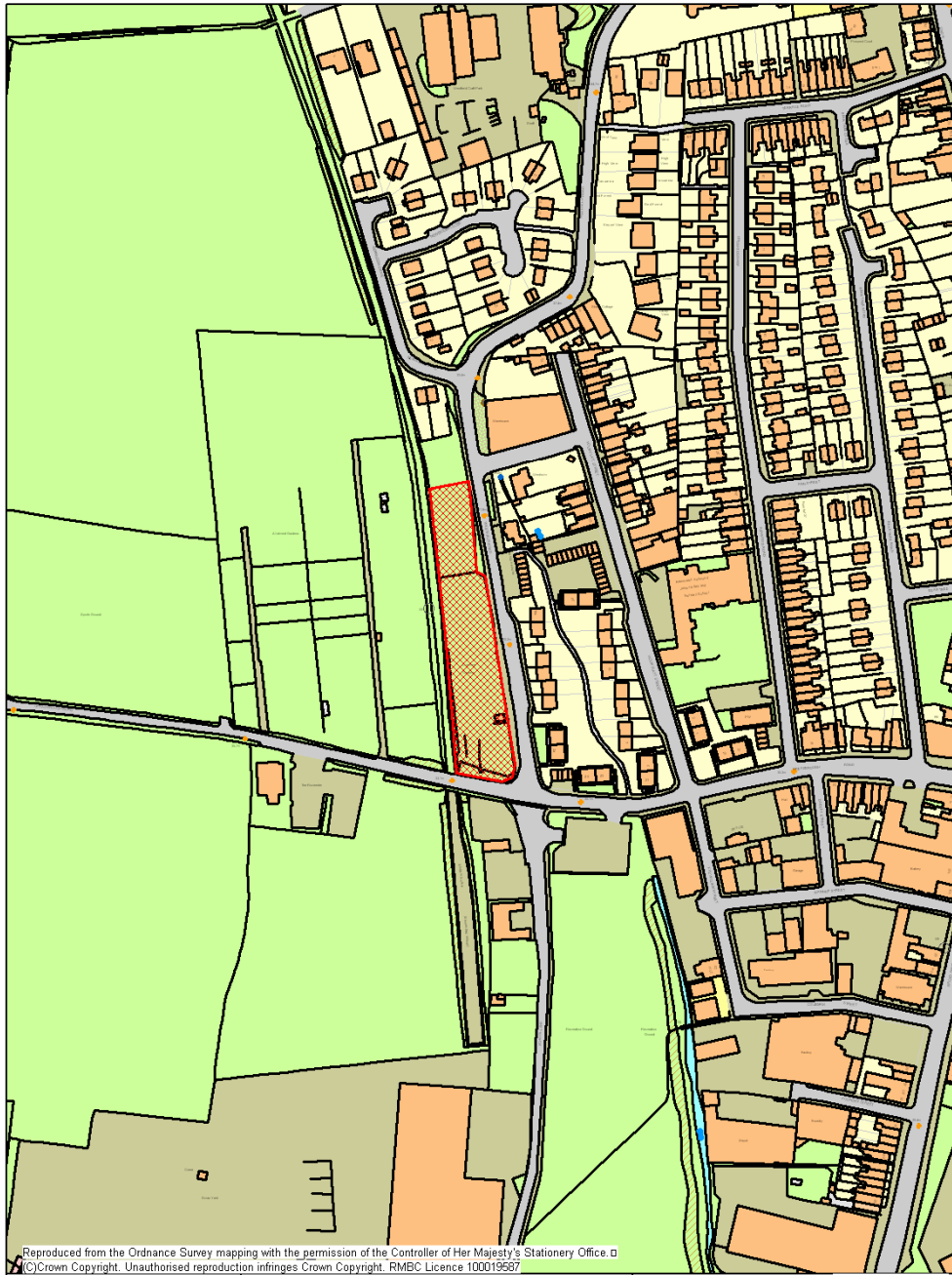
[PR52] To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

15

[PR97] To define the permission and for the avoidance of doubt.

16

In the interests of visual amenity of the area and in accordance with UDP Policies ENV1 'Green Belt' and ENV3.1 'Development and the Environment'.



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 <p>Scale 1:2500 Date: 07/07/2009 Map Centre: □ 443432_395323</p>		<p>Rotherham MBC Env't & Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p>Rotherham Metropolitan Borough Council Where Everyone Matters</p>
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Background

There have been no applications on this site since a 1976 application for storage of a box van and caravan in the central area of the site.

The site is beneath 0.5 hectares in size and does not require a screening opinion.

Site Description & Location

The site comprises of a linear parcel of land that measures approximately 160 metres by 25 metres and lies on the western area of Westfield Road, less than 250 metres west of the Parkgate retail centre. The site is predominantly vacant though there is some evidence of a paddock use and a steel storage container also located in the centre of the site. A stone wall runs approximately parallel with Westfield Road from the northern edge of the site to the central area. The site slopes gradually from north to south. There are a number of small trees and shrubs, located mainly in the southern end of the site. The long linear area of the site is a constraint on the design and layout of any future residential scheme.

Directly adjacent the western boundary of the site area lies the trackbed of a former mineral railway that previously served the Nether Stubbin Colliery. To the west of this lies an area of Greenbelt land that is currently used as an allotment area. To the east and north of the site area is a residential housing estate that dates from the 1970s, whilst to the south of the site is the northern end of the Mangham Industrial Estate.

Proposal

An outline application for 14 residential units with attached side garages. The factors being considered at the outline stage are the principle of residential development, layout and scale.

The red-edge site area of the application site has been extended to include an area to the north between Westfield Road and Newbiggin Drive, previously to be left vacant as a relocated tenancy area. The spacing of the 14 residential units were then re-positioned across the increased site area, with no additional units.

The application has been supported by the submission of a Tree Survey which can be summarised as follows:

- *Survey carried out on 3 September 2008.*
- *No trees of significance found, though there were was a significant amount of hawthorn and elder scrub.*
- *No significant arboricultural constraints under definitions of BS5837:2005.*
- *The next survey should be taken within 12 months.*

A Flood Risk Assessment and drainage statement has also been submitted and can be summarised as follows:

- *The site does not have any positive drainage*
- *Rainwater run-off is estimated at 1-2.5 litres per second.*
- *There was some local flooding in June 2007, though this was the result of exceptional rainfall and was the first time in 35 years.*

- *It is proposed to create 66 'stormcell' units beneath the Green Space as part of a Hydro-brake flow control.*
- *If the measures outlined are taken, the proposals will be able to account for 1/100 year flooding (plus additional 20%) without causing flooding to surrounding properties.*

Development Plan Allocation and Policy

01 RSS Policies

POLICY H1: Provision and distribution housing indicates that the region's housing stock should be improved and increased to provide appropriate accommodation for all households wanting homes.

02 UDP Policies

HG1 'Existing Housing Areas' indicates that the Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which have no adverse effect on the character of the area or on residential amenity, and are in keeping with the character of the area in terms of scale, layout and intensity of use.

HG4.3 'Windfall Sites' indicates that the Council will determine proposals with regard to their location within the built-up environment and compatibility with adjoining uses and other relevant policies and guidance.

HG5 'The Residential Environment' indicates that The Council will encourage best practice in housing layout.

ENV1.4 'Land Adjacent to the Green Belt' indicates that development should not have a dominant impact on the Green Belt.

ENV3.1 'Development and the Environment' indicates that development will be required to make a positive contribution to the environment.

Other Material Considerations

National Policies

PPS3 'Housing' indicates that development should make efficient use of the available land.

PPS25 Planning and Flood Risk indicates that minimising flood risk is integral to good design.

Interim Planning Statement – Affordable Housing requests Affordable Housing provision of 25% when 15 units or above are provided.

Publicity

All relevant neighbours were informed by letter on 28 April 2009 and a site notice was erected on 01 May 2009. The application has also been advertised in the local press. All

neighbours have been notified by letter on 29 June 2009 of the amended plans and site area.

One letter of objection has been received and this is summarised as follows:-

- Development would increase the amount of extra traffic.
- Westfield Road is narrow and winding and needs to be improved.
- Is the highway visibility at the southern end of the site good enough?

I have also been verbally informed by a resident that an additional letter has been sent objecting to the plans, but this has not been received by the planning department. The objection has been verbally summarised as follows:0

- Loss of another green area in Parkgate.
- Increase in traffic and congestion.

The applicant has requested the Right to Speak at the meeting.

Consultations

Yorkshire Water – no objections subject to conditions
Transportation Unit – no objections subject to conditions
South Yorkshire Fire and Rescue – no objections
Police Architectural Liaison Officer – no objections
Affordable Housing Officer – no objections
Tree Officer – no objections

Appraisal

This is an outline application for residential development with scale and layout being formally considered at this stage.

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

- The principle of residential development on this site.
- Impact on the Green Belt.
- The design of the proposed scheme and the visual impact on the street scene.
- Impact on the Highway network.
- Impact on trees and their future prospects.
- Potential for increased flooding and surface water run-off and impact on drainage of the area.

Principle

The land is allocated for residential purposes in the Development Plan and this is acceptable in land use terms. With regard to Planning Policy Statement 3 'Housing' it is considered that the characteristics of the site indicate that this represents Greenfield land as defined in Annex B of PPS3. Indeed the site is covered in rough grassland, and there is no visible evidence of any previous built form on the site. However, the Presumption Against Greenfield Development was lifted in February 2008 and as the site is located approximately 200-250 metres from Parkgate retail centre, it is

considered to be a sustainable location. In land use terms it is considered that the principle of residential development on the site is acceptable from a policy perspective.

Impact on the Green Belt

In terms of scale, the submitted plans propose a traditional two storey development with a regular gable-style roof design with no habitable living space within the roof space. The majority of the other residential development in the surrounding area comprises of two storey development and it is considered that the plans would reflect a similar form of design. The two storey development is considered to have an acceptable visual impact on the street scene and is also not considered to have a dominant or detrimental impact on the Green Belt which lies directly adjacent to the site boundary on the western elevation. It is considered therefore that the proposal would be sympathetic to the Green Belt and is in accordance with the criteria outlined in UDP Policy ENV1.4 'Land adjacent to the Green Belt'.

Design and Visual Impact on the street scene

In terms of density, 14 units on this site equates to a density of approximately 38 units per hectare. Such a density is considered to reflect the advice contained within Policy PPS3 'Housing' being between the recommended 30 to 50 dwellings and is considered to be in keeping with the density of other residential development along Westfield Road. The site has a mainly linear form having a long north-south axis and a shallow depth on the east-west axis which constrains the design and layout of the development. It is considered that a linear development of housing is the only realistic layout option, though this does create gardens which are between 8-10 metres in length. However, it is considered that the width of the proposed plots at approximately 10 metres compensates for the short plot lengths and provides an overall acceptable level of private amenity space for future residents and meets the criteria outline in policies HG5 'The Residential Environment' and ENV3.1 'Development and the Environment'.

It should be noted that the final design and external appearance of the scheme is not being considered at this stage. However, it is considered that the indicative plans showing traditional semi-detached two storey properties with attached garage blocks that are set back from the front building line has an overall acceptable appearance on the street scene. The indicative plans show a stone wall which runs along the majority of the frontage with Westfield Road would be retained and in places re-built. It is considered that this would provide a good overall appearance to the front elevations, though all of these issues would be assessed in more detail at the reserved matters stage.

Impact on the Highway network.

The Transportation Unit consider that providing maximum parking standards are created, the scheme is acceptable from a highway safety perspective. The visibility at the southern end of the site is acceptable subject to a visibility splay. There is to be no built development on the southern end of the site which would remain within the cartilage of plot 1 and be maintained as garden area.

Impact on trees

The Tree Survey indicates that there are no trees of any significance found, and there is overall limited amenity provided. There was a significant amount of hawthorn and elder scrub across the site. The Tree Officer has indicated that the trees present are unlikely to meet the criteria for inclusion within a new Tree Preservation Order. When viewed from Westfield Road there are no prominent trees visible on the street scene. It is therefore considered that there are no objections in principle to the development of the site and that a future landscaping scheme could be conditioned to mitigate any potential reduction in amenity.

Potential for increased flooding

The Flood Risk Assessment indicates that there is a general lack of sub-service infrastructure to deal with runoff. Yorkshire Water have indicated that they accept the findings from the FRA and have no objections to the proposal subject to conditions. They have also advised that the local public sewer network does not have the capacity to accept any additional surface water from the site and a suitable watercourse will need to be established.

Conclusion

In land use terms it is considered that the principle of residential development on this site is acceptable from a policy perspective and in accordance with the guidance in national policy PPS3 'Housing'. The scale of development comprising of traditional two storey houses with a regular gable-style roof design is considered to have an acceptable visual impact on the street scene and is also not considered to have a dominant or detrimental impact on the Green Belt to the west as recommended in Policy ENV1.4 'Land Adjacent to the Green Belt'. The density of the development at approximately 38 units per hectare is considered to be in keeping with the density of other residential development along Westfield Road and is considered to result in an efficient use of land. Although not all of the plots have rear gardens of 10 metres, a standard normally imposed, the width of all of the plots is approximately 10 metres which gives an acceptable level of private amenity space in accordance with Policy ENV3.1 'Development and the Environment'. The Transportation Unit considers that providing maximum parking standards are created, the scheme is therefore acceptable from a highway safety perspective. Whilst the site has limited surface water drainage capacity, Yorkshire Water have no objections to the proposals from a drainage perspective subject to conditions. It is considered that this meets the criteria outlined in PPS25 'Planning and Flood Risk'.

RB2009/0500

Erection of two storey building to form children's day nursery at land at Manvers Way, Manvers for Childcare Business Partnership.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

The Local Planning Authority has decided to grant planning permission:

1. Having regard to the policies and proposals in the Development Plan and all relevant Guidance, as set out below, along with all other relevant material planning considerations:

Development Plan:

UDP Policies:

Policy EC1.1 Safeguarding Existing Industrial and Business Areas supports proposals which help safeguard the viability of existing business and industrial areas.

Policy EC 3.3 Other Development within Industrial and Business Areas, states that other uses within such areas will be acceptable subject to no land use conflicts and the use increases the range and quality of employment opportunities, and the development can be shown to be ancillary to the primary use of the area.

Policy EC3.4 Small Businesses states that The Council will support the expansion of small firms and the development of new enterprises.

ENV 3.1 Development and the Environment states that development should have a positive effect on the environment.

Policy CR 1 Community and Social Provision states that the Council will seek to enable community and social facilities which enhance the quality of life of the resident population.

2. For the following reasons:

Whilst it the proposed use is a departure from the Development Plan, it is considered that the proposal would help safeguard the viability of an emerging business/industrial employment area by the provision of sustainable safe child care facilities, along with 12 new full time jobs. The proposal would therefore provide new employment, enhance employment opportunities, support the viability of the area and assist the development of a new enterprise. The building would also lend itself to conversion to light industrial use should the proposed use cease.

It is further considered that the proposed building will be acceptable in terms of its scale massing, design and materials, and would relate well to other proposed buildings in the area.

The proposal is therefore in accordance with the referred to policies and advice.

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:

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

[PC27*] 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.

03

Before the development hereby approved is commenced on site, details of cycle parking facilities shall be submitted to and approved by the Local Planning Authority in accordance with the Council's Cycle Parking Guidelines and the approved details shall be implemented before the development is brought into use.

04

[PC52] 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.

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 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

[PC81*] The premises shall be used for a children's day nursery only and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987).

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

[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.

03

[PR94] In order to promote sustainable transport choices.

04

[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'.

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

[PR81*] The premises are not considered suitable for general use within the Class quoted for sustainability reasons and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

Informatives

1.

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

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

2.


This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act must be obtained from the relevant authority or body prior to the commencement of the development hereby approved.

3.

The Developer should contact the Council's Food and Health and Safety Departments regarding the preparation and serving of food at the site.



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 <p>Scale 1:2500 Date: 07/07/2009 Map Centre: □ 442704,401633</p>		<p>Rotherham MBC Envt & Devt Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □ □</p>  <p>Rotherham Metropolitan Borough Council Where Everyone Matters</p>
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Background

The site of application forms part of a large area of land, which was formerly a railway marshalling yard. Planning permission for a golf course, leisure, residential and commercial development was granted in 2006 on the overall Manvers site and the current application site forms part of this overall site (RB2004/2304). The permission included for the provision of a day nursery within the leisure centre element.

A resolution from Planning Board to grant an outline planning permission for alternative leisure development and additional residential on part of the overall site (to the east of the current application site) was made in 2008 (RB2008/0524). This proposal did not specifically include a day nursery facility. The related S106 agreement has not as yet been signed.

A revised proposal on for B1 (Business) B2 (General industry) and B8 (Storage and Distribution) purposes on part of the overall site, including the current application site, was granted conditionally in 2007 (RB2007/869).

Finally, planning permission for a restaurant/take-away on land directly adjacent (south) of the current application site was granted in 2007 (RB2007/1806).

Site Description & Location

The site of application is located approximately 1.2 km to the north west of Wath Town centre on a flat reclaimed area of land. The site is located directly adjacent to the site of the proposed restaurant/take-away granted in 2007 though no development has commenced on this part of the overall Manvers site.

Proposal

The application is for a two storey children's day nursery, which would be purpose designed to accommodate 125 children, between the ages of 0 to 5 years, including a crèche for 25 children, and provide a full day care service. The building would have a floor space area of 1060 sq m on a site of approximately 0.21 hectares, and comprise two overlapping rectangular blocks, with hipped roofs. Parking provision would be 34 car spaces, with a maximum of 20 spaces for staff. The remainder would be for visitors and parents including 2 disabled spaces.

The application is accompanied by a Design and Access statement which indicates that the building would be designed and orientated to meet the statutory required space for the number of children to be accommodated, maximise the amount of outside play area on the south facing side of the building, and provide car parking and the secure main entrance on the opposite side of the building.

The scale, size, design and materials of the building are to reflect those of other proposed buildings in the vicinity and avoid an institutional appearance to the structure.

The proposal will generate the equivalent of 12 full time jobs.

Development Plan Allocation and Policy

The site is allocated for Industry and Business purposes on the Unitary Development Plan. Relevant policies are:-

Policy EC1.1 Safeguarding Existing Industrial and Business Areas.

“The Council will support proposals which safeguard the viability of established industrial and business areas, including those which seek to improve buildings, infrastructure and the environment.”

Policy EC3.3 Other Development within Industrial and Business Areas.

“Within the sites allocated for industrial and business use on the Proposals Map, other development will be accepted, subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses, where such development can be shown to be ancillary to the primary use of the area, or would provide significant employment and it can be shown that:

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

Policy EC3.4 Small Businesses.

“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 for business use, to facilitate the diversification of the Borough’s rural economy.*

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

Policy ENV3.1 Development and the Environment.

“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 CR1 Community and Social Provision.

“The Council will seek to enable the provision and retention of a range of community and social facilities through a variety of local authority, private sector and local community partnerships, where ever appropriate, which enhance the quality of life and

serve the changing needs of the resident population, in particular, identified target groups including people with disabilities.”

Publicity

The application was advertised on site and in the press. No representations have been received.

Consultations

Transportation Unit:

No objections in a highway context subject to the imposition of appropriate conditions in respect of the provision and maintenance of parking areas.

Access Officer:

Has recommended fully automated access doors and access for the disabled, including a disabled toilet at first floor level.

Director of Environmental Health:

Envisages no significant loss of amenity by virtue of noise, air quality or land pollution impact. It is also recommended that in the event of planning permission being granted the nursery should register with the Council's Food and Health and Safety Department.

Play Engagement Officer:

Has pointed out that more information and provision would be required, regarding care of disabled children and inclusive provision to gain OFSTEAD registration.

South Yorkshire Police:

Have made recommendations regarding additional steps required to achieve Secured by Design Standard, including weld mesh fencing, lighting for the car park and an access control system for the main entrance. These have been forwarded to the applicant for information.

Ecology Officer:

Points out that the site has limited ecological value but could be of interest to ground nesting birds. Points out that the proposals incorporate no biodiversity gain.

Appraisal

The application is for a building to provide full day care for up to 125 children between 0 and 5 years of age. The site of application is allocated for Industrial and Business purposes on the Unitary Development Plan. The main issues with regard to the proposal are therefore:

- a. The principle of the development.*
- b. The scale and design of the building.*

c. Other issues raised in consultation replies.

a. The principle of the development:

The site is allocated for Industrial/Business purposes on the Unitary Development Plan and consequently the proposal is a departure from the Development Plan. However, the site of application is within an emerging significant employment area and would assist in the regeneration of the Dearne Valley. It would provide a facility enabling employees with young families, working in the vicinity, to access care facilities for their children near to their place of work. There is consequently an element of sustainability to the proposals. Additionally the equivalent of 12 new full time jobs would be created by the development.

The proposal therefore offers an opportunity to assist young family parents to work by provision of sustainable child care facilities and create new jobs in an area of regeneration. Additionally the future alternative use of the building, which would lend itself to potential conversion to light industrial/office use should the current proposal not prove viable, can be controlled by an appropriate condition. Whilst a nursery facility was approved as part of the overall Manvers development under RB2004/2304, this has in effect been superseded by the outline application RB2008/0524 which Members were disposed to grant in 2008, though the related S106 agreement has not at this stage been signed.

It is therefore considered that, subject to a condition controlling alternative D1 uses, the proposal is acceptable in principle, and would be in accordance with Policies EC1.1 Safeguarding Existing Industrial, EC3.3 Other Development in Industrial and Business Areas, and Business Areas, and CR 1 Community and Social Provision of the Unitary Development Plan.

b. The scale and design of the building:

The building would be a large and imposing building, prominently located in the street scene. The building would be in the form of two rectangular blocks which overlap in the centre and have a central entrance atrium, which would face the site entrance and car parking provision. That feature would add a focal point to clearly define the main entrance. The building would have a large tiled, hipped roof over a steel framed building clad in brickwork. Emphasis in the design is placed on natural lighting to the interior with large windows which give a mainly horizontal emphasis to the elevations. Additionally, the building would reflect the scale and size of other proposed buildings in the vicinity.

The proposal would to some extent be inward looking insofar as the best elevation would face the car park. However, the alternative would be to have the car parking between the building and the adjacent access road. Additionally, the other elevations to the building are of good quality design with horizontal emphasis and interesting features. Finally, the orientation of the main entrance is to some extent determined by the location of the outside play area on the southern side of the building.

It is therefore considered that subject to appropriate conditions, the proposed building will be acceptable in terms of its scale, massing design and materials, would relate well to other buildings in the area, and accord with Policy ENV 3.1 Development and the Environment, of the Unitary Development Plan.

c. Issues raised in consultation replies:

Other issues relating to access, child care and inclusion are dealt with by other legislation and consequently an informative has been attached in this respect. With regard to security comments from the South Yorkshire Police Architectural Liaison Officer will be sent to the applicant's agent.

With regard to ecology, the site has limited ecological value being partially cleared and part rough grassland. An informative is therefore recommended to make the applicants aware of their responsibilities regarding any protected species which may be found on site.

Conclusions

The proposed development would help safeguard the future viability of an emerging business/industrial employment area which forms an integral part of the Dearne Valley regeneration area, by the provision of sustainable child care facilities, in a good quality building which would be appropriate to the area in terms of its scale, design and materials. It is therefore recommended that permission be granted.

RB2009/0527

Details of the erection of 31 No. three storey dwelling houses and 30 No. two storey dwelling houses (reserved by outline RB2007/0475) at land at Denman Road, Wath upon Dearne for Guinness Northern Counties.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO APPROVE RESERVED MATTERS

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 H3 'Managing the release of land in support of interventions to address failing housing market'

Policy T1 'Personal Travel Reduction and Modal Shift'

- (ii) Local Planning 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,

ENV3.2 'Minimising the Impact of Development' states that: "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impacts on the environment..."

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

HG4.3 'Windfall Sites' states that: "The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in light of their (i) location within the existing built up area and compatibility with adjoining uses; and (ii) compatibility with other relevant policies and guidance."

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

T6 'Location and Layout of Development' states that: "the location of new development, the Council will have regard to the increasing desirability of reducing travel demand..."

b) Other relevant material planning considerations

National Policy

Planning Policy Statement 1 'Delivering Sustainable Development'

Planning Policy Statement 3 'Housing'

Planning Policy Statement 6 'Town Centres'

Planning Policy Guidance 13 'Transport'

Supplementary Planning Guidance

Housing Guidance 7: 'Security'

2. For the following reasons:

The principle of residential development of this site is established by the outline consent (reference RB2007/0475) which was granted conditionally on 30 August 2007. The current application seeks approval for details of the appearance, layout and scale of development and the landscaping.

In general, the layout of the development accords with the Council's normal standards which seek to prevent a loss of privacy and overshadowing to existing and new residential properties and demonstrates that attention has been paid to the form and relationship with surrounding dwellings. The layout, scale and massing of the proposed development is considered to accord with UDP Policies ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and HG5 'The Residential Environment' which requires development to make a positive contribution to the environment by achieving an appropriate standard of design, scale and relationship with the locality which enhance the quality of the residential environment whilst providing increased accessibility for everyone.

It is considered that the design of the development respects the topography of the site, whereby the mixture of building heights and stepped facades relate well to the surrounding properties/locality according with UDP Policy ENV3.1 'Development and the Environment'. The proposed development will undoubtedly improve the visual amenity of the locality and assist in the regeneration of this part of Wath.

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

Conditions Imposed:

Highways

01

[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.

02

[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.

03

[PC29] Before the development is commenced road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority.

04

[PC94] 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.

Drainage

05

[PC12] 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.

06

Unless otherwise agreed in writing with the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 metres of either side of the centre lines of each of the sewers i.e. total protected strip widths of 6 metres per sewer, that cross the site.

07

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

08

Unless otherwise approved by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the

approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the foul drainage works.

Landscaping

09

[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.

10

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.

11

[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.

Mining

12

Prior to the commencement of development, a detailed mines gas investigation report shall be submitted to and approved by the Local Planning Authority. The report shall identify the measures proposed to address any mines gas that may be affecting the site, and make recommendations so as to ensure the safe development and use of the site. All work shall thereafter be carried out in accordance with the approved report.

13

Any surface fissures encountered during the course of development shall be suitably treated and any foundations reinforced to span areas of weak and broken ground in

accordance with details to be submitted to and approved by the Local Planning Authority.

Environmental Health

14

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

15

Any construction work necessary to carry out the development hereby granted shall only be permitted between the following hours, Monday - Friday inclusive 0800 - 1800, Saturday 0800 - 1300 and not at all 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 and the approved schedule shall be adhered to.

16

Heavy goods vehicles shall only enter and leave the site between the hours of 0800 - 1800 Monday to Friday inclusive, Saturday 0800 - 1300 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).

17

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.

General

18

No development shall take place until the applicant, their agent, or their successor in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been submitted to, and approved in writing by, the Local Planning Authority.

19

[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 units are occupied.

20

[PC52] 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.

21

Prior to the commencement of development details should be submitted for agreement by the Local Planning Authority as to how the recommendations from the ecological assessment report (submitted with RB2007/0475) and any other biodiversity enhancement measures are to be incorporated into the site.

22

Prior to the commencement of development, full details (including sections, details methods of construction and drainage) of the proposed 2 metre wide footway to the north of Valley Way as shown on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. The footway shall be constructed in accordance with those details prior to the first occupation of any of the dwellings hereby approved.

23

Prior to the commencement of development, details of the proposed gateway shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall include details of boundary walls, surfacing, public art, lighting and seating. The gateway feature shall be carried out in accordance with those approved details in a timescale to be agreed in writing by the Local Planning Authority.

24

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

(Drawing numbers 08012/P/Re-Sub/04A, 05A, 06,07A, 08A, 09A, 10, 14, 14-23, 235A, 26C and 27-29)(received 15 June and 6 July 2009)

Reasons for Conditions:

Highways

01

[PR24B] 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'.

02

[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.

03

[PR29] No details having been submitted they are reserved for approval.

04

[PR94] In order to promote sustainable transport choices.

Drainage

05

[PR12] To ensure that the development can be properly drained in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.

06

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

07

In the interest of satisfactory and sustainable drainage.

08

In the interest of satisfactory and sustainable drainage.

Landscaping

09

[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'.

10

[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'.

11

[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'.

Mining

12

In the interests of the safe redevelopment of the site.

13

In the interests of the safe redevelopment of the site.

Environmental Health

14

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.

15

In the interests of the residential amenity of the surrounding occupiers.

16

In the interests of the residential amenity of the surrounding occupiers.

17

To minimise the generation of dust onto the public highway outside the site in the interests of amenity.

General

18

To ensure that adequate measures can be made for the recording and monitoring of any archaeological finds and features 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'.

19

[PR44] In the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

20

[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'.

21

In the interest of satisfying the requirements of PPS9 to conserve and enhance biodiversity.

22

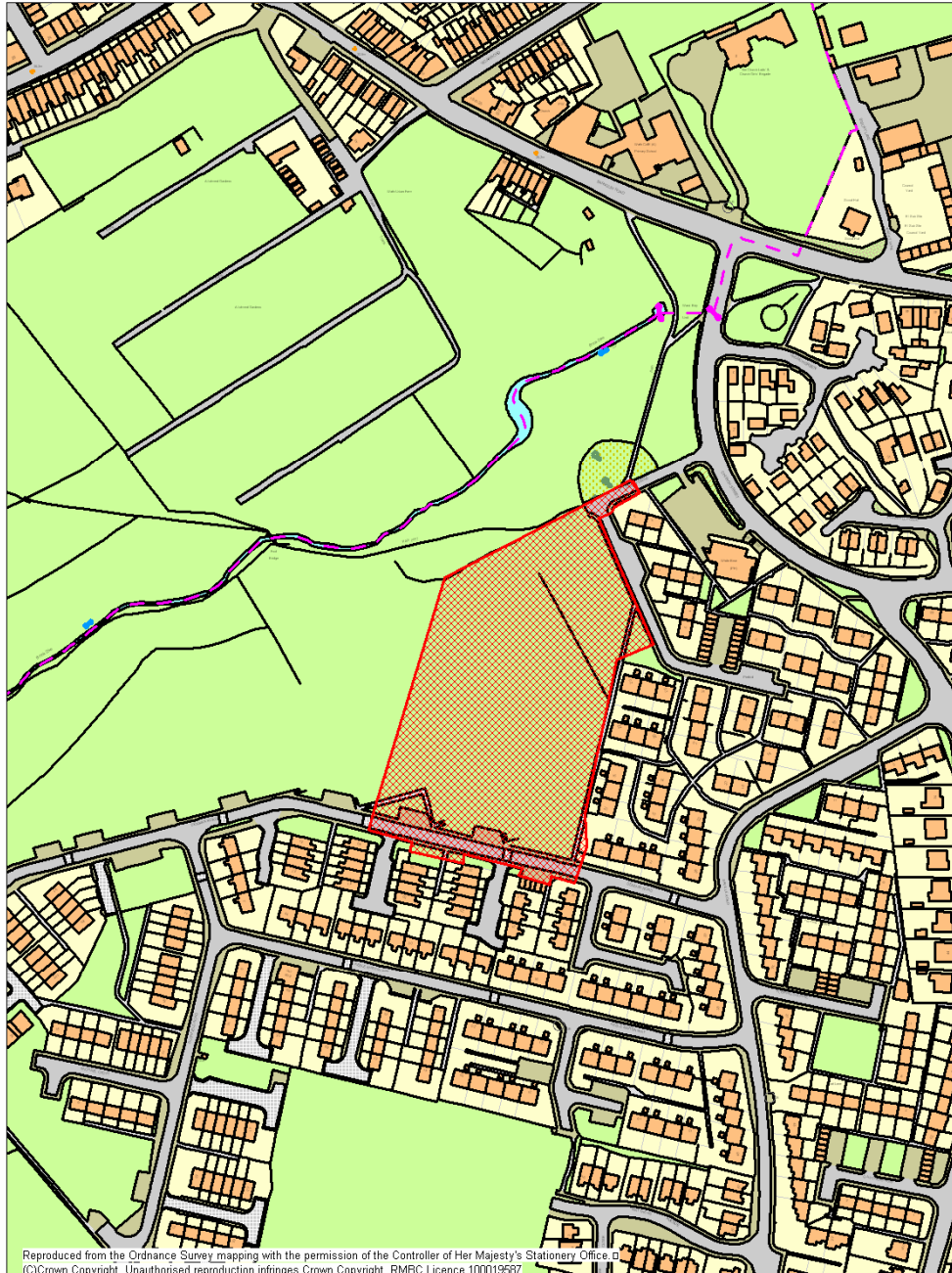
In the interest of pedestrian safety.

23

To ensure a well designed and appropriate gateway feature is installed in accordance with Policy ENV3.1.

24

[PR97] To define the permission and for the avoidance of doubt.



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Scale 1:2500

Date: 07/07/2009

Map Centre: □
442971,400760

Rotherham MBC

Env't & Dev't Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □
□



Background

Outline planning permission was granted 30 August 2007 (reference RB2007/475) for residential development, highways, pedestrian and public realm improvements as part of an urban renewal project under the Housing Market Renewal Pathfinder programme.

The outline planning permission covers a total of 6 sites:

- 1. Land north of Denman Road (this reserved matters application relates to part of this site);*
- 2. Denman Road;*
- 3. Land off Bushfield Road;*
- 4. Land off Michael Croft;*
- 5. Land off Fleming Square;*
- 6. Land off Gawtress Row.*

Two of the sites above were subject to full planning applications in order to retain Housing Corporation funding prior to the determination of the outline consent:

RB2007/0824 Erection of 2 No. eco-bungalows on land at Fleming Square, Wath – Granted Conditionally

RB2007/0975 Erection of a two storey building to form one dwellinghouse and two apartments on land at Gawtress Row, Wath – Granted Conditionally

In addition a further full planning application was approved for the development of the Michael Croft site:

RB2008/0012 – Erection of 16no. three storey dwellinghouses and 8no. two storey dwellinghouses with associated works to public realm of highway and improvements to boundary treatments along Michael Croft – Granted Conditionally

A previous application for this site was withdrawn in 2008 following negotiations with the applicant/agent.

RB2008/1407 - Details of the erection of 32 No. three storey dwellinghouses and 26 No. two storey dwellinghouses (reserved by outline RB2007/0475) - Withdrawn

Environmental Impact Assessment

The proposed development falls within the description contained at paragraph 10(b), 'Urban Development Projects' of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and meets the criteria set out in column 2 of the table in that schedule in that the size of the site exceeds the 0.5 hectare threshold. The Borough Council as the relevant Local Planning Authority, has taken into account the criteria set out in Schedule 3 to the 1999 Regulations, and is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the Authority has adopted the opinion that the development is not EIA development as defined in the 1999 Regulations and this opinion has been placed on the Planning Register.

Site Description & Location

The application site covers an area of approximately 1.45 hectares and occupies the eastern portion of Site 1 (north of Denman Road). The site is identified as Site 1a.

To the south of the site is Denman Road, and on the opposite side of Denman Road are two storey properties with gables facing the street. To the east are a number of bungalow properties, whilst to the west is the remainder of Site 1 (a cleared site which was formerly occupied by flats development). To the north and north-west is open countryside, allotments and public open space known as the Flatts Valley area which is allocated as green belt.

The site suffers from topographical issues and slopes both from south to north and from east to west.

The majority of this site is undeveloped, however, a small portion has previously been occupied by two storey flats which were demolished approximately 3 years ago. The site is now largely re-vegetated by scrub, bushes and grass.

Proposal

This is a reserved matters planning application pursuant to the outline approval for the wider White Bear Estate granted under reference RB2007/475.

The application proposes the residential development of part of Site 1 (Land north of Denman Road). The residential development comprises 31no. three storey dwellinghouses and 30no. two storey dwellinghouses.

The accommodation mix is as follows:

- 31no. two bedroom dwellings;
- 27no. three bedroom dwellings;
- 3no. four bedroom dwellings.

The density of the development equates to 37 dwellings per hectare.

The site layout incorporates three distinctive character areas:

- Urban boulevard;
- Mews Court; and
- Rural Lane.

Urban boulevard aims to develop a formal environment with hard landscape features and strong enclosure. The housing fronting onto Denman Road is classified as being within the Urban Boulevard. This is characterised by 3 storey dwellings reducing to 2 storeys where the new development adjoins the existing bungalows.

Mews Court is designed to provide private secure courtyard housing with small groups of dwellings and no vehicle thoroughfare. The layout incorporates two Mews Courts running parallel with Denman Road

Rural Lane provides an access from Denman Road through to Valley Drive, linking the Mews Courts. The Rural Lane takes its form from historical models of street layout in rural areas and is defined by tight frontages, single side pavements, varied street lighting, textured stone walls and extensive planting.

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

Tree Survey

The tree survey concludes that:

"I can see no tree related reason why redevelopment of this site should not be undertaken. The design for the site should take into account the benefits of trees in urban environs and leave appropriate space for new tree planting. While retaining the Silver Maple seems a reasonable idea in reality it could be easily and quickly replaced. It is not such a specimen that a whole scheme should be designed with its retention in mind."

Sustainability Statement

The sustainability statement identifies that it is the intention of the developer to stimulate the local housing market, raise the quality of the surrounding area and make this estate a location of choice. The statement acknowledges that the site is served by a number of bus routes and is in close proximity to a number of local services.

The housing units themselves are designed to meet Level 3 of the Code for Sustainable Homes standards – improving massively on the existing Building Regulation Standards.

Flood Risk Assessment

The submitted Flood Risk Assessment identifies the site as being outside an indicative flood plain having a risk of flooding of less than 0.1% in any given year. As such the flood risk to this site is considered to be minimal.

Phase Two Site Investigation

This report presents the findings of a Phase 2 investigation, it is based on a site walkover, trial pit investigation and laboratory test results for contamination levels and geotechnical testing.

To protect users of the site from very slightly elevated contaminants a minimum 150mm capping layer of topsoil should be installed over gardens and soft landscaped areas. In addition basic radon precautions will be required.

Design and Access Statement

The Design and Access Statement states that the application site incorporates three distinctive character areas:-

- Urban boulevard;
- Mews Court;
- Rural Lane.

It is considered that the combination of the three character areas as based on the original Design Code (submitted as part of the outline planning permission) clearly identifies a distinctive character for this development. The development does this by relating to both the natural environment and also the surrounding urban context.

Development Plan Allocation and Policy

a) Development Plan

(i) RSS

Policy SY1 'South Yorkshire sub area'

Policy H3 'Managing the release of land in support of interventions to address failing housing market'

Policy T1 'Personal Travel Reduction and Modal Shift'

(ii) Local Planning 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,

ENV3.2 'Minimising the Impact of Development' states that: "In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impacts on the environment..."

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

HG4.3 'Windfall Sites' states that: "The Council will determine proposals for housing development not identified in Policies HG4.1 and HG4.2 in light of their (i) location within the existing built up area and compatibility with adjoining uses; and (ii) compatibility with other relevant policies and guidance."

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

T6 'Location and Layout of Development' states that: "the location of new development, the Council will have regard to the increasing desirability of reducing travel demand..."

Other Material Considerations

National Policy

Planning Policy Statement 1 'Delivering Sustainable Development'

Planning Policy Statement 3 'Housing'

Planning Policy Statement 6 'Town Centres'

Planning Policy Guidance 13 'Transport'

Supplementary Planning Guidance
Housing Guidance 7: 'Security'

Publicity

The planning application has been advertised by way of site notices posted on Denman Road and Valley Drive and also by a Press Notice on 14 May 2009.

In addition, individual letters were sent to local residents on 11 May 2009 and further letters (relating to an amendment) on 23 June 2009. One letter of representation has been received from a local resident. The concerns are as follows:

- The proposal shows the pathway from Denman Road to Valley Drive to be partially closed off thereby restricting access and egress. It is the wish of the residents of the bungalows on Denman Road that this pathway is kept in its present condition as it is used by the warden and relatives of the elderly to make their calls.*

A copy of the letter of representation will be available in the Members' Room prior to the Meeting.

Consultations

Yorkshire Water has no objections to the proposal;

Quality and Design Team supports the proposal;

Police Architectural Liaison has no objection to the proposal;

Transportation Unit has no objections subject to conditions;

South Yorkshire Passenger Transport Executive has no objections;

Environment Agency has no objections subject to conditions;

Affordable Housing Officer has confirmed that this is an affordable housing scheme being delivered with the Registered Social Landlord (Guinness North Counties) and the Neighbourhood Investment Service and is therefore supported;

Footpaths Officer has no objections to the proposal subject to a separate footpath for pedestrians from Valley Drive;

Ecologist has commented that: "The plot of land now subject to detailed application is on the northern boundary of the wider site and therefore is one of the areas within which it is recommended that the Brook Dyke corridor is considered and enhancement and protection measures are agreed. The current detailed information received contains no reference to the Brook Dyke or the measures previously raised by the Developers ecological survey and assessment work.... The planning information submitted still demonstrates a commitment to sustainability and best practice and therefore it is recommended that further consideration be given to how the proposed development will protect and enhance the adjacent local wildlife site (Flatts Valley) and encourage biodiversity within the site."

South Yorkshire Archaeology has no objections to the proposal subject to a standard condition.

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 issues in the determination of this application include the scale of the development, appearance and layout, the impact on the character of the area and surrounding environment and whether the details fall within the ambit of the outline planning permission for the site and the conditions attached to it.

The principle of residential development of this site is established by the outline consent (reference RB2007/0475) which was granted conditionally on 30 August 2007. The current application seeks approval for details of the appearance, layout and scale of development and the landscaping.

Scale, massing and layout

The outline planning application included a Masterplan and Design Code which related to the wider White Bear Estate. The Design Code was intended to highlight a set of key design criteria and aspirational standards to be adopted across the development site. The Design Code identified a range of character areas across the wider estate that bore direct relation to its current urban qualities. Three character areas were for Site 1a (the application site):

- 1. Urban Boulevard;*
- 2. Rural Lane; and*
- 3. Mews Court.*

The application site suffers from substantial level differences with the site sloping relatively steeply from Denman Road down to Valley Drive. Whilst, this has to some extent determined the type and form of the development proposed for this site, the house types and massing of the development has utilised the site levels to step down the hillside.

Urban Boulevard

The Urban Boulevard comprises the Denman Road frontage. This part of the development is aimed to be the most 'Urban' in character and is the only part of the site which contains three storey properties which are not split level to the rear. The existing properties in this section of Denman Road have windowless side elevations facing onto the road; this creates a weak streetscene which is poorly overlooked. The urban feel of the development aims to provide a strong and active, continuous frontage along Denman Road creating a sense of place. Whilst the urban boulevard is predominantly three storeys (with ground floor integral garages), the plots adjacent to the existing bungalows have been stepped down to two storey to minimise the visual impact within the street scene and relate the development to the existing properties.

The corner plot which turns onto the Rural Lane (running at 90 degrees to Denman Road) is a strong frontage onto both streets which turns the corner without creating a windowless elevation.

Rural Lane

The rural lane has been designed to curve from Denman Road to Valley Drive, with a key nodal point creating a natural traffic calming situation. For the most part, this section of the proposed development only has development along one side with the opposite side representing a link to the Flatts Valley with a separate footpath along the hillside and extensive landscaping.

The house types along the rural lane are predominantly semi-detached with 2no. detached properties. Due to the natural topography of the site, the dwellings step from mainly three storeys in the southern section of the rural lane to exclusively two storeys in the northern section. This allows for an increasing rural feel to the lane and also links the development from Denman Road (which is particularly urban in nature) to the Flatts Valley which lies to the north and west of the site and those existing two storey properties on Valley Drive.

The housetypes along the rural lane are more traditional in character with features including projecting bay windows, canopies and regular fenestration.

Mews Court

The proposed development layout incorporates two Mews Courts which are located parallel to Denman Road. On each of the Mews Courts the house types on one side are three storeys facing the Court and two storeys at the rear (facing the gardens) to accommodate the level change across the site.

Pedestrian links are provided from the end of the Mews Courts to the adjacent bungalows on Denman Road. Whilst the existing access path leading from Valley Drive to Denman Road will be removed, it is considered that this would have become a poorly overlooked link footpath and its replacement with a number of well overlooked accesses to the bungalow properties accords with SPG on Security and Secured by Design guidelines. In terms of designing out crime, South Yorkshire Police have commended the schemes compliance with 'Secure by Design' as set out in the Masterplan which will produce a safe environment for existing/future residents in accordance with SPG Housing Guidance 7: 'Security'.

The layout of the development includes a variety of housetypes ranging from 2 bedroom to four bedroom accommodation in two and three storey form. PPS3 'Housing' advocates a variety of houses which should contribute to the creation of mixed communities and it is considered that the proposed development meets this objective.

In general, the layout of the development accords with the Council's normal standards which seek to prevent a loss of privacy and overshadowing to existing and new residential properties and demonstrates that attention has been paid to the form and relationship with surrounding dwellings. The layout, scale and massing of the proposed

development is considered to accord with UDP Policies ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and HG5 'The Residential Environment' which requires development to make a positive contribution to the environment by achieving an appropriate standard of design, scale and relationship with the locality which enhance the quality of the residential environment whilst providing increased accessibility for everyone.

Appearance

The materials to be used in the construction of the proposed development include red brick cladding in the Mews Court, buff and black brick which aim to offer a hint to the soot stained sandstone within the Wath area. The use of timber cladding aims to soften the appearance of the development in light of its relationship to the Green Belt and rural nature along the Rural Lane. White render aims to ensure consistency through the White Bear development site.

The proposed design of the dwellings varies through the character areas but is linked by gradually introducing more urban/traditional features into the house type designs.

It is considered that the design of the development respects the topography of the site, whereby the mixture of building heights and stepped facades relate well to the surrounding properties/locality according with UDP Policy ENV3.1 'Development and the Environment'. The proposed development will undoubtedly improve the visual amenity of the locality and assist in the regeneration of this part of Wath.

The external appearance of the proposed dwellings makes a significant impact upon the visual amenity of the street-scene from where it can be seen from a distance. It is therefore considered that the stepped scale of the development is visually interesting and thereby accords with the objectives of UDP Policy ENV3.1 'Development and the Environment' which requires development to make a positive contribution to the environment by achieving an appropriate standard of design.

The inclusion of public open space within the development is integral with its design. The dwellings have been designed so that all elevations are 'active' with windows overlooking public open spaces within the development site.

Highways Issues

The site is located within easy pedestrian reach of Wath town centre shopping centre and adjacent a busy classified transport route that links the locality to Barnsley, Doncaster and Rotherham and the key employment areas of Manvers and Cortonwood. These routes are well served by public transport. It is therefore considered that the proposed development will be sustainable in terms of access to shops, schools, services, facilities and existing infrastructure and therefore accord with the objectives of UDP Policy T6 'Location and Layout of Development', PPS1 'Delivering Sustainable Development' and PPS3 'Housing' which seek to reduce travel demand and deliver a sustainable pattern of regeneration.

The proposed highway design throughout the proposed layout attempts to avoid the traditional approach to highway layout which is predominant across the existing White Bear housing estate. The proposed access utilises a less formal style of carriageway which creates informal 'break out' spaces, tree planting and block paving.

Within the Mews Courts, the design of the highway utilises shared spaces with a variety of block pavings which respond the frontages of the units and create an interesting pattern and enables the car parking to be integrated within the curtilages to the front of the dwellings.

The proposed layout of the development indicates the inclusion of parking spaces at the end of the Mews Courts for the use of the residents of the existing, adjacent bungalow properties.

Along the Rural Lane, all car parking is within the boundary of the dwellings, which offers security. Visitor car parking is provided on the public street.

With regard to the letter of objection relating to the closure of the footpath from Valley Drive to Denman Road, it is noted that this footpath has previously been subject of a closure order and is therefore now unadopted. In addition the proposed layout provides an alternative and improved access between Valley Drive and Denman Road and also provides access from the Mews Court to the existing bungalows.

In general, the car parking provision accords with the Council's Maximum Car Parking Standards and is considered to be acceptable.

Conclusion

The details provided are acceptable in terms of the scale, layout and design of development and the landscaping of the site and are consistent with the outline planning permission (RB2007/0475) and the conditions attached to it.

The proposals are considered to represent an acceptable form of development that would not be out of keeping with the existing character of the area. Furthermore, by virtue of its size, scale, form, design, mass, siting and materials the proposed dwellings would not have a detrimental effect on the visual amenities of the area and would successfully assimilate into the streetscene. Consequently, the proposed development makes a positive impact on the environment by achieving an appropriate standard of design.

Overall it is considered that the proposal accords with UDP Policy T6 'Location and Layout of Development' and PPG13. Furthermore, it is considered that adequate provision is made for parking within the confines of the site and that the proposed development will not result in a situation hazardous to highway safety.

RB2009/0616

Partial demolition of wall to facilitate widening of access from Church Street and landscaping/improvements to church yard including pruning & removal of various trees (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) at All Saints Minster, Church Street, Rotherham Town Centre for RMBC (EDS).

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 – The Yorkshire and Humber Plan

Policy ENV9 ‘Historic Environment’

(ii) Local Planning Policy - Rotherham UDP

The site is allocated as a Community Facility and Urban Greenspace and is also a Grade I Listed Building. The following policies are considered to be relevant in the determination if this application:

Policy ENV2.6 ‘Alterations to Listed Buildings’

Policy ENV2.8 ‘Setting and Curtilage of Listed Buildings’

Policy ENV2.11 ‘Development in Conservation Areas’

Policy ENV3.1 ‘Development and the Environment’

Policy ENV5.1 ‘Allocated Urban Greenspace’

Policy CR1 ‘Community and Social Provision’

b) Other relevant material planning considerations

Rotherham Town Centre Draft Public Realm Strategy

National Policy

PPG15 ‘Planning and the Historic Environment’

2. For the following reasons:

Policy ENV9 of the Yorkshire and Humber Plan requires that the historic environment be safeguarded and enhanced. On this basis, in principle it is considered that the proposals seek to enhance the visual amenity and usability of the Minster in accordance with the Regional Policy.

In terms of local policies, this site is allocated as a community facility and as Urban Greenspace within the Unitary Development Plan. The aim of the current proposal is to create pleasant Greenspace with high quality public

realm. In principle, the proposed landscaping proposals are considered to accord with the relevant UDP Policies.

The Minster is a Grade 1 Listed Building which occupies an important position within the town centre. The creation of widened steps and a piazza to the front of the southern entrance to the church is considered to create a focal point and enhance the building. The works will help to clearly guide users of the area to the entrance on the Minster and enhance the setting of the building. The effect will be to integrate the space with the rest of the town centre and wider Conservation Area in addition to expanding the views from the front of the Minster to showcase the Vista leading to the River.

The improvements to the Church yard/public realm area will increase the number of people using the area for leisure purposes and will link the different parts of the town centre. This will ultimately lead to increased footfall, vibrancy and economic activity within its environs and benefit both the town centre Conservation Area and the setting of the Listed Building.

On balance the loss of the trees in the Church yard is not considered to be sufficient to warrant a refusal of planning permission given the wider benefit of creating a wholly paved and useable piazza at the southern entrance to the Church. It is not considered that the removal of the trees identified would have a detrimental appearance on the setting or appearance of the Listed Building or the visual amenity of the locality in general terms.

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

[PC52] 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.

02

The bollards adjacent to Vicarage Lane shall be collapsible/moveable and lockable.

03

The stones to support the proposed benches shall be York Stone, a sample of which shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development.

04

[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.

05

[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.

06

[PC41] 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 2 years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

07

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the design, materials and type of fencing to be erected adjacent to the bin storage area to the rear of the properties on High Street. The fence shall be erected in accordance with those details and within a timescale agreed by the Local Planning Authority.

08

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 within a timescale agreed, in writing, by the Local Planning Authority.

09

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.

Reasons for Conditions:

01

[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'.

02

To enable access for loading and unloading for properties adjacent to the Yard on Vicarage Lane.

03

In the interest of the visual amenity of the locality and to ensure the use of appropriate materials to match those of the Minster building.

04

[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'.

05

[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'.

06

[PR41] 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'.

07

[PR44] In the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

08

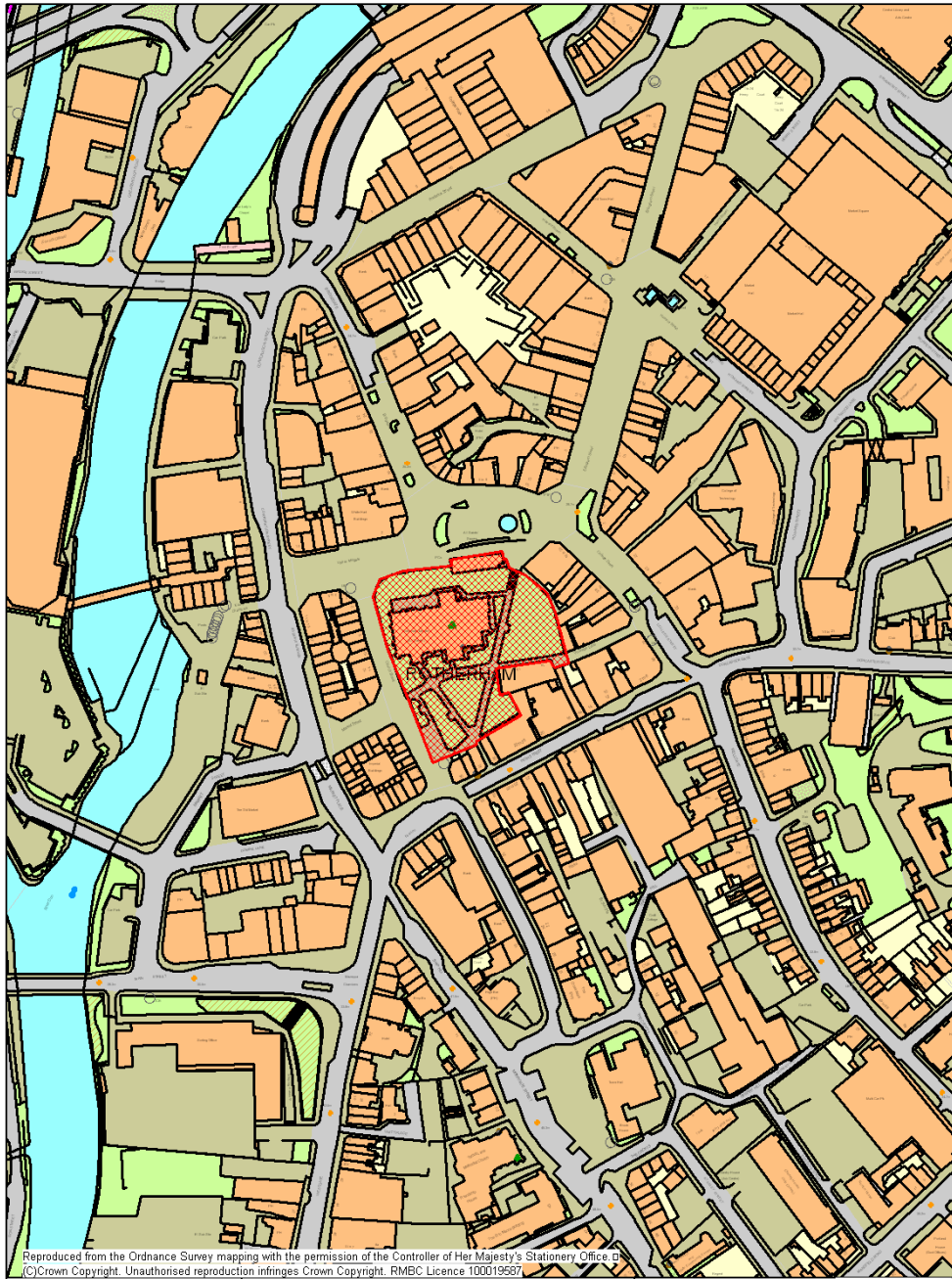
[PR38C] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

09

[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'.

Informatives

The applicant is advised to contact the Council's Streepride Service (Bob Wright 822966 Adoption Officer) so as to ensure that the appropriate licenses/agreements/specifications are adhered to.



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<p>Scale 1:2500 Date: 07/07/2009 Map Centre: □ 442867,392832</p> 		<p>Rotherham MBC Env't & Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p>Rotherham Metropolitan Borough Council Where Everyone Matters</p>
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Background

Two previous applications for a slightly different scheme within the Minster Yard were previously withdrawn:

RB2008/1791 - Conservation Area Consent for demolition of part of wall to facilitate widening of access steps to church yard

RB2008/1792 - Installation of floodlighting to Minster, partial demolition of wall to facilitate widening of access steps from Church Street and central landscaping/improvements to church yard including pruning & removal of various trees (Application under Regulations 3 & 9A of the Town & Country Planning General Regulations 1992).

Members may also recall a subsequent application for floodlighting of the Minster at Planning Board in May 2009:

RB2009/320 - Installation of floodlighting (Application under Regulations 3 & 9A of the Town & Country Planning General Regulations 1992) – Granted 12/05/2009

Site Description & Location

The application relates to Rotherham Minster which lies within the town centre and is bordered by All Saints Square to the north and Church Street to the west. On the opposite side of Church Street is the site of the former All Saints Building for which planning permission was recently granted for redevelopment including retail and residential. The Church is bounded to the south by period properties on High Street, which are predominantly in retail/commercial use although there are a number of residential flats at first floor.

In relation to Church Street and All Saints Square, the Church yard is raised (ranging from 1 metre to 2.5 metres). The Minster occupies a prominent and important position within the town centre and is a Grade I Listed Building dated to the 15th Century.

The church yard surrounding the Church has been mostly cleared of graves/grave stones in the mid 20th Century and now consists of various pathways through grassed areas which are dated in appearance.

Proposal

This application is a revised scheme following the withdrawal of a previous planning application for various demolition and landscaping works to the Minster yard. The application proposes the following works:-

- (i) Removal of part of the church yard boundary wall along Church Street and widening of the existing steps;
- (ii) A new piazza (paved area) to the front of the southern entrance to the church yard;
- (iii) New pathways and paving throughout the church yard;
- (iv) Construction of seating walls;
- (v) Pruning/removal of trees and replacement shrub and tree planting.

A previous planning application proposed similar landscape proposals to the Minster yard and the main revision to that scheme is a decreased width of the steps leading from Church Street and a smaller section of boundary wall to be removed.

The steps leading from Church Street to the southern entrance to the Minster represent the most significant change. It is proposed to increase the width of the steps to open out to a piazza at the front of the main church entrance. This will involve the demolition of a section of the church yard wall fronting Church Street and relocation of the Victorian entrance piers which are currently sited adjacent to the steps. The return retaining wall for the steps will be constructed with the old stone from the demolished section of wall.

It is proposed to fell the existing Cotoneaster tree adjacent to the southern entrance to the Minster. However, it is proposed to plant a new Cotoneaster tree within a grassed area to the south of the proposed piazza.

The pathway layout for the scheme aims to create linkages to increase accessibility to the church yard for pedestrians. New pink sandstone slabs to match the materials of the Minster will be utilised to create the piazza and the existing stone slabs will be relaid along the pathways to remove any tripping hazard and create a smoother surface.

Seating walls will be constructed of stone to enhance the setting of the area and will comprise a mixture of informal seating on the low stone walls and more traditional seating on benches with arm rests which will be incorporated into the walls.

Development Plan Allocation and Policy

Development Plan

- (i) RSS – The Yorkshire and Humber Plan

Policy ENV9 ‘Historic Environment’

- (ii) Local Planning Policy - Rotherham UDP

The site is allocated as a Community Facility and Urban Greenspace and is also a Grade I Listed Building. The following policies are considered to be relevant in the determination of this application:

Policy ENV2.6 ‘Alterations to Listed Buildings’ states that: “Proposals for alterations or additions will be judged against their effect upon a Listed Building’s special interest. Works which harm a buildings special interest will not be permitted except in special circumstances...”

Policy ENV2.8 ‘Setting and Curtilage of Listed Buildings’ states that: “The Council will resist development proposals which detrimentally affect the setting of a listed building or are harmful to its curtilage structures...”

Policy ENV2.11 ‘Development in Conservation Areas’ states that: “In respect of designated Conservation Areas, the Council will not permit development, demolition or work which would affect their architectural or historic character or visual amenity...”

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..."

Policy ENV5.1 'Allocated Urban Greenspace' requires justification of the loss of urban Greenspace under a set of criteria.

Policy CR1 'Community and Social Provision' states that: "The Council will seek to enable the provision and retention of a range of community and social facilities through a variety of local authority, private sector and local community partnerships..."

Other Material Considerations

Rotherham Town Centre Draft Public Realm Strategy

National Policy

PPG15 'Planning and the Historic Environment'

Publicity

Neighbouring properties were notified of the proposals on 27 May 2009 and site and press notices were posted on 5 June 2009. One letter of objection has been received. The grounds of objection are as follows:-

- The proposals will have the opposite effect to opening up the area and will encourage undesirables into the area;*
- The proposed benches will encourage rough sleepers to the area;*
- The access to the church has been adequate for years and the present attractive seating area on Church Street is quite sufficient;*
- The removal of the flowerbeds will be detrimental.*

Consultations

Transportation Unit has no objections to the proposal.

English Heritage have advised that this revised scheme now meets the previous concerns of English Heritage and the preservation of a greater length of historic wall is welcomed.

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 application are:-

- The principle of the development;*

- *Design and Visual amenity including the impact of the proposals on the Listed Building and Conservation Area;*
- *Impact on trees.*

Principle

Policy ENV9 of the Yorkshire and Humber Plan requires that the historic environment be safeguarded and enhanced. On this basis, in principle it is considered that the proposals seek to enhance the visual amenity and usability of the Minster in accordance with the Regional Policy.

In terms of local policies, this site is allocated as a community facility and as Urban Greenspace within the Unitary Development Plan. The aim of the current proposal is to create pleasant Greenspace with high quality public realm. In principle, the proposed landscaping proposals are considered to accord with the relevant UDP Policies.

Design and Visual Amenity

The Minster is a Grade I Listed Building which occupies an important position within the town centre. However, in recent years it is clear that the church yard has ceased to function as an area of Urban Greenspace and has been subject to 'hot-spots' of anti-social behaviour.

The planned landscape design supports the aspirations of the Council's Green Framework to deliver high quality green spaces – this is outlined in the draft Public Realm Strategy for the town centre. The church yard is important as it lies within the town centre Conservation Area, it will affect the setting of the Minster as a Listed Building and has the potential to enhance the setting in line with Policy ENV9 of the Yorkshire and Humber Plan and UDP Policies ENV2.11 and ENV2.8 which states that:

"The Council will resist development proposals which detrimentally affect the setting of a listed building or are harmful to its curtilage structures in order to preserve its setting and historical context."

PPG15 clearly recognises the importance of the areas around Listed Buildings and states that:

"The setting is often an essential part of the building's character, especially if a garden or grounds have been laid out to complement its design or function."

It is clear that the church yard was carefully planned to compliment the Minster and has a function of providing access not only to the different areas of the church yard but to the entrances to the Minster.

This revised scheme seeks to preserve a greater section of the boundary wall (in comparison to the previous proposal) and this is welcomed by English Heritage who considered the boundary wall to be an important feature on Church Street. A balance has now been reached in this revised scheme by removing a smaller section of the wall but widening the steps (to a lesser extent) and creating a piazza to the front of the southern entrance to the church. The proposed steps and piazza will create a focal point and enhance the building which will clearly guide users of the area to the entrance to the Minster and will enhance the setting of the building. The effect will be to integrate

the space with the rest of the town centre and the wider Conservation Area and create a welcoming entrance to the Minster Yard in addition to expanding the views from the front of the Minster to the Vista leading to the River. Moreover, the opening up of this space will ensure maximum surveillance of the area not only from street level but also from the new replacement All Saints Building and the imperial buildings. Currently the height of the Parish wall on Church Street prevents surveillance from Church Street.

The pathway layout for the scheme retains the historic positions and aims to create improved pedestrian linkages between the various areas of the church yard. Whilst some of the pathways will be slightly expanded, this aims to increase accessibility for pedestrians. Increasing accessibility into this area of allocated Urban Greenspace accords with the provision of UDP Policy ENV5.1 and CR1.

It is considered that the improvements to the Church Yard/public realm will increase the number of people using the area for leisure and also act as a link between the different parts of the town centre. This will ultimately lead to increased footfall, vibrancy and economic activity within its environs and benefit both the town centre Conservation Area and the setting of the Listed Building.

Trees

The Trees and Woodlands Officer originally raised concerns regarding the loss of the Cotoneaster tree close to the southern entrance to the Minster. The fundamental reason for these proposals is to improve the setting of the Minster, open it up to the town centre and create better linkages. The scheme proposes to achieve these objectives by creating an open piazza immediately at the entrance to the Minster thus enabling large scale gatherings and informal seating. Retaining the Cotoneaster tree and soft verge around it would result in losing a greater part of the proposed piazza and retaining the status quo of this entrance.

It is clear from historic images of the building that the Cotoneaster tree post dates the majority of the trees planted in the church yard. In fact it is considered that the scale and shape of the tree so close to the Minster does not complement its setting. The southern entrance to the Minster should appear as a prominent architectural feature which ideally should not be obscured by any nearby planting.

The tree has been classed as a Category C Tree in the Arboricultural Report submitted in support of the application and its lifespan is considered to be limited. Furthermore, and most importantly the submitted landscape scheme shows that a replacement Cotoneaster tree will be planted in the soft landscape area within the confines of the Church yard to the south of the new piazza.

On balance, given the aims of the proposed alterations to the church yard to create a piazza which is unobscured and enhance the southern entrance to the Minster it is considered that the loss of the existing Cotoneaster tree will be mitigated to some extent by a replacement tree in a more appropriate position in a proposed soft landscape area to the south of the piazza.

Conclusion

Overall, it is considered that the proposed works to the Minster church yard accord with Regional Planning Policy set out in Policy ENV9 of the Yorkshire and Humber Plan and

with Local Planning Policies of the Unitary Development (namely Policy ENV2.6 'Alterations to Listed Buildings', Policy ENV2.8 'Setting and Curtilage of Listed Buildings', Policy ENV2.11 'Development in Conservation Areas', Policy ENV3.1 'Development and the Environment', Policy ENV5.1 'Allocated Urban Greenspace' and Policy CR1 'Community and Social Provision').

The previous concerns of English Heritage regarding the loss of the boundary wall along Church Street have been overcome by reducing the width of the proposed new steps and the materials to be used in the paving and construction of new walling are now considered to be appropriate for this location.

RB2009/0617

Conservation Area Consent for demolition of part of wall to facilitate widening of access steps to church yard at All Saints Minster, Church Street, Rotherham Town Centre for RMBC (EDS).

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT CONSERVATION AREA CONSENT

1. Having regard to the Development Plan and all other relevant material considerations as set out below:
 - a) Development Plan
 - (i) RSS – The Yorkshire and Humber Plan

Policy ENV9 'Historic Environment'
 - (ii) Local Planning Policy - Rotherham UDP

The site is allocated as a Community Facility and Urban Greenspace and is also a Grade I Listed Building. The following policies are considered to be relevant in the determination of this application:

Policy ENV2.11 'Development in Conservation Areas' states that: "In respect of designated Conservation Areas, the Council will not permit development, demolition or work which would affect their architectural or historic character or visual amenity..."

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...”

b) Other relevant material planning considerations

Rotherham Town Centre Draft Public Realm Strategy

National Policy

PPG15 'Planning and the Historic Environment'

2. For the following reasons:

Currently the height of the stone wall on Church Street prevents surveillance from this direction. The creation of widened steps and a piazza to the front of the southern entrance to the church is considered to create a focal point and enhance the building which will clearly guide users of the area to the entrance to the Minster and will enhance the setting of the building. The effect will be to integrate the space with the rest of the town centre and the wider Conservation Area and create a welcoming entrance to the Minster Yard in addition to expanding the views from the front of the Minster to showcase the Vista leading to the River. Moreover, the opening up of this space will ensure maximum surveillance of the area not only from street level but also from the new replacement All Saints building and Imperial Buildings.

On balance, therefore, it is considered that the removal of part of the stone boundary wall to facilitate the new access steps and public realm works is acceptable and will not result in a materially detrimental impact on the character and appearance of the Conservation Area.

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

Conditions Imposed:

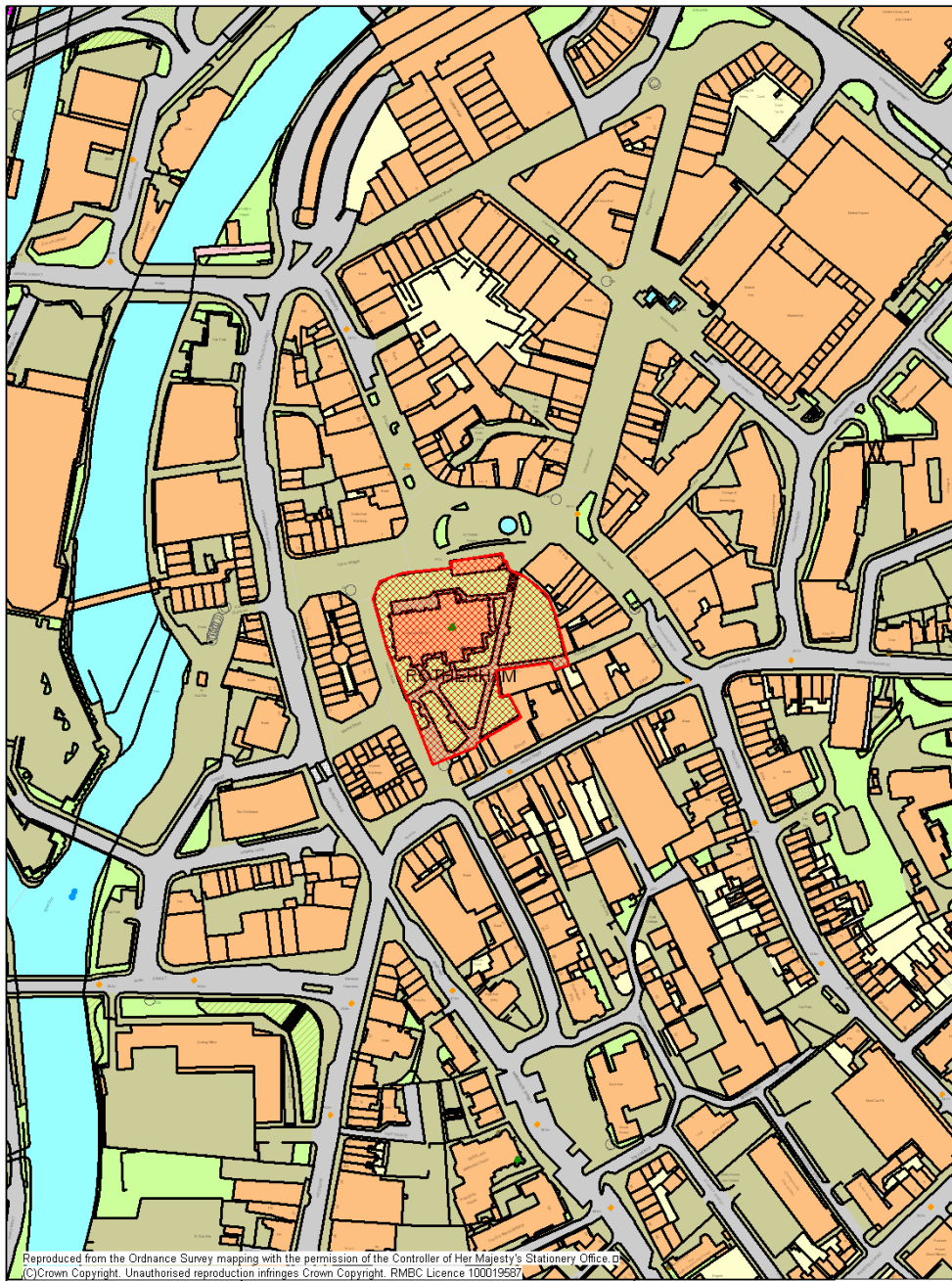
01

No development shall take place until a phasing plan has been submitted to and approved in writing by the Local Planning Authority to demonstrate the timescale involved in the demolition and redevelopment of this site.


Reasons for Conditions:

01

In the interest of the visual amenity of the Conservation Area.



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Background

Two previous applications for a slightly different scheme within the Minster Yard were withdrawn:

RB2008/1791 - Conservation Area Consent for demolition of part of wall to facilitate widening of access steps to church yard

RB2008/1792 - Installation of floodlighting to Minster, partial demolition of wall to facilitate widening of access steps from Church Street and central landscaping/improvements to church yard including pruning & removal of various trees (Application under Regulations 3 & 9A of the Town & Country Planning General Regulations 1992)

Members may also recall a subsequent application for floodlighting of the Minster at Planning Board in May 2009:

RB2009/320 - Installation of floodlighting (Application under Regulations 3 & 9A of the Town & Country Planning General Regulations 1992) – Granted 12/05/2009

Site Description & Location

This application relates to Rotherham Minster which is set within the town centre and is bordered by All Saints Square to the north and Church Street to the west. On the opposite side of Church Street are the All Saints Buildings for which planning permission was recently granted for redevelopment including retail and residential. The church is bordered to the south by period properties on High Street, which are predominantly in retail/commercial use.

In relation to Church Street and All Saints Square, the church yard is raised (ranging from approximately 1 metre to 2.5 metres). The Minster occupies a prominent and important position within the town centre and is a Grade 1 Listed Building dating to the 15th Century.

The church yard surrounding the Church has been mostly cleared of graves in the mid 20th Century and now consists of various pathways through grassed areas which are dated.

Proposal

This application is linked to application RB2008/1792 which proposes lighting of the Minster and landscape works to the Church Yard. The landscaping works include the creation of widened steps from Church Street and a piazza adjacent to the southern entrance to the Minster. The creation of these works requires the demolition of part of a wall and ornate piers on Church Street and it to these demolition works that this application relates.

The length of wall to be demolished is approximately 12 metres and ranges in height up to approximately 1.5 metres. In addition it is proposed to remove the existing stone piers which mark the existing steps from Church Street although 2 of the three piers are to be relocated adjacent to the new steps.

Development Plan Allocation and Policy

a) *Development Plan*

(i) *RSS – The Yorkshire and Humber Plan*

Policy ENV9 ‘Historic Environment’

(ii) *Local Planning Policy - Rotherham UDP*

The site is allocated as a Community Facility and Urban Greenspace and is also a Grade I Listed Building. The following policies are considered to be relevant in the determination if this application:

Policy ENV2.11 ‘Development in Conservation Areas’

Policy ENV3.1 ‘Development and the Environment’

Other Material Considerations

Rotherham Town Centre Draft Public Realm Strategy

National Policy

PPG15 ‘Planning and the Historic Environment’

Publicity

Neighbouring properties were notified of the proposals on 27 May 2009 and site and press notices were posted on 5 June 2009. No representations have been received.

Consultations

Environmental Health has no objections to the proposals;

Transportation Unit has no objections;

English Heritage have advised that this revised scheme now meets the previous concerns of English Heritage and the preservation of a greater length of historic wall is welcomed.

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 issues in the determination of this application are:

- *The impact of the proposed demolition on the Conservation Area*

Impact of proposed demolition on the Conservation Area

This revised scheme seeks to preserve a greater section of the boundary wall (in comparison to the previous proposal) and this is welcomed by English Heritage who considered the boundary wall to be an important feature on Church Street. A balance has now been reached in this revised scheme by removing a smaller section of the wall but widening the steps (to a lesser extent) and creating a piazza to the front of the southern entrance to the church.

Currently the height of the stone wall on Church Street prevents surveillance from this direction. The creation of widened steps and a piazza to the front of the southern entrance to the church is considered to create a focal point and enhance the building which will clearly guide users of the area to the entrance to the Minster and will enhance the setting of the building. The effect will be to integrate the space with the rest of the town centre and the wider Conservation Area and create a welcoming entrance to the Minster Yard in addition to expanding the views from the front of the Minster to showcase the Vista leading to the River. Moreover, the opening up of this space will ensure maximum surveillance of the area not only from street level but also from the new replacement All Saints building and Imperial Buildings.

Conclusion

On balance, therefore, it is considered that the removal of part of the stone boundary wall to facilitate the new access steps and public realm works is acceptable and will not result in a materially detrimental impact on the character and appearance of the Conservation Area.

RB2009/0648

Retrospective application for the erection of detached dwellinghouse with detached double garage (amendment to previously approved under RB2008/0631) at Plot 1, 66 Moorgate Road, Moorgate for Clough Developments 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

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."

ENV2.11 'Development in Conservation Areas' states that "In respect of designated Conservation Areas, the Council: Will have regard to the degree to which proposals are compatible with their vernacular style, materials, scale,

fenestration or other matters relevant to the preservation or enhancement of their character.”

ENV3.4 ‘Trees, Woodlands and Hedgerows’ states that: “The Council will seek to promote and enhance tree, woodland and hedgerow coverage throughout the borough.”

b) Other relevant material planning considerations

Supplementary Planning Guidance ‘Housing Guidance 1

2. For the following reasons:

It is considered that the application is acceptable would not be detrimental to the amenities of neighbouring residents by way of overshadowing, loss of privacy or overbearing nature or detrimental to the visual character/appearance of the Conservation Area or surrounding area given its scale, mass and position in relationship to adjoining properties/streetscene.

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

The design and construction of the driveway as indicated on the submitted site layout drawing shall only take place in accordance with the submitted details and specification as shown on the approved plan (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority.

(Drawing number CRB 10 revised 26.05.2009 received 28 May 2009)

03

[PC94] 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.

04

[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 submitted details 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.

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

[PR97] To define the permission and for the avoidance of doubt.

03

[PR94] In order to promote sustainable transport choices.

04

[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'.


Informative

INF 30 Provision for Fire Appliances

The granting of this permission does not override any requirement to provide a turning head for a fire appliance in accordance with any Building Regulations submission.



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Background

Most recent planning history for this site:

- RB2001/1198-Six weeks notice of intent to fell 5 conifers within the Conservation Area – No objections.
- RB2007/1089-Erection of three detached dwellings – Granted conditionally.
- RB2008/0631-Erection of 3 detached dwellinghouses (amendment to previously approved RB2007/1089) – Granted conditionally.

Site Description & Location

The application site is located on Fairleigh Drive Moorgate to the rear of 66 Moorgate Road and lies within Moorgate Conservation Area. Three detached properties are currently being constructed on the site under planning permission RB2008/0631. The surrounding properties vary in terms of both scale and design.

The site relates to plot 1 which is located to the south west of Fairleigh Drive. There are a number of trees on the boundaries of the site and within Moorgate cemetery directly adjacent to the application site.

Proposal

The applicant is seeking to amend the previously approved application (RB2008/0631) as follows:

- 1) Change the integral garage into a family room incorporating patio doors instead of a garage door.
- 2) Erection of a detached double garage to rear of the house which is retrospective and currently under construction. The garage is constructed in materials to match the host property with a pitched roof to a height of approximately 5.5 metres.

Development Plan Allocation and Policy

The application site is allocated for residential purposes in the Unitary Development Plan (UDP) and is within Moorgate Conservation Area.

The proposed development shall be assessed against the requirements of UDP Policies ENV3.1 'Development and the Environment', ENV2.11 'Development in Conservation Areas', ENV3.4 'Trees, Woodlands and Hedgerows' and Supplementary Planning Guidance (SPG) Housing Guidance 1.

UDP 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, height, quality of materials, site features."

ENV2.11 'Development in Conservation Areas' states that "In respect of designated Conservation Areas, the Council: Will have regard to the degree to which proposals are compatible with their vernacular style, materials, scale, fenestration or other matters relevant to the preservation or enhancement of their character."

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

Supplementary Planning Guidance 'Housing Guidance 1: Building a detached garage, carport or other building in your garden' states that "the Council hopes that householders will use good quality for such buildings, and will have regard for neighbours in their location, design and use."

Publicity

Neighbouring properties were notified of the application in writing and a site notice posted outside the site. In addition the application was advertised in the local press given that the site is within the Conservation Area.

Three letters of objection have been received (one of the letters has been signed by 5 residents). The comments are summarised as follows:-

- The application would affect the character and/or appearance of Moorgate Conservation Area.*
- Garage already constructed and too high and large for the plot*
- Too close to the boundary*
- Disturbance and noise from the overall development.*

Copies of the letters will be available in the Members Room prior to the meeting.

One right to speak request has been received.

Consultations

- The Council's Transportation Unit have no object subject to relevant conditions.*
- The Council's Trees and Woodlands Team have no objection subject to relevant conditions.*
- Fire Officer advises that the application should be in accordance with Building Regulation Approved Document B volume 1 part 5 section 11 access for fire appliances.*

Appraisal

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

- The principle of the detached garage development.*
- The impact the development would have on the Conservation Area, streetscene and surrounding area.*
- The impact the development would have on neighbouring residential amenity.*
- The impact of the development on trees within/adjacent to the site.*

The principle of the detached garage development.

The site is allocated for residential use in the UDP and the principle of residential development has been established by two previous permissions for three detached dwellings on the site.

The impact the development would have on the Conservation Area streetscene and surrounding area.

The application proposes amendments to the previous approval to convert the integral garage into a family room which incorporates the replacement of the garage door with patio doors and retrospective permission for a detached double garage. It is considered that the patio doors would not significantly alter the appearance of the proposed dwelling given that they have been designed to replicate the approved patio doors to the rear elevation.

Whilst the double garage is already in situ it is considered acceptable in this instance given that it is of a similar architectural design to the proposed houses and constructed in materials to match.

On this basis it is considered the application would not have an adverse visual impact on the character/appearance of this part of the Conservation Area and complies with the aims of UDP Policy ENV2.11 'Development in Conservation Areas'.

Furthermore it is considered that the proposed amendments accords with the requirements of UDP Policy ENV 3.1 'Development and the Environment', which aims to ensure that development makes a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, height, quality of materials and site features and

The impact the development would have on neighbouring residential amenity.

The Council's adopted SPG 'Housing Guidance 1: Building a detached garage, carport or other building in your garden' states that "the Council hopes that householders will use good quality for such buildings, and will have regard for neighbours in their location, design and use."

It is considered that the double garage conforms to the relevant sections of the SPG and would not have a detrimental impact on the residential amenity of neighbouring properties due to adequate separation distances involved and the trees on the boundaries of the site and adjacent land which provides good boundary screening.

The impact the development would have on trees within/adjacent to the site.

With regard to the above and having taken into account comments of the Trees and Woodlands Team it is recommended that the application is conditioned to safeguard the existing trees within the site and on adjacent land.

Conclusion

With the above in mind it is considered that the amendments subject to the safeguard of the above conditions would not have a detrimental effect on the Conservation Area, streetscene and the occupiers of the adjacent neighbouring properties. Therefore it is concluded that the application complies with the requirements detailed within UDP Policies ENV3.1 'Development and the Environment', ENV2.11 'Development in Conservation Areas' and ENV3.4 'Trees, Woodlands and Hedgerows'.

Having regard to all of the above I recommend that planning permission be granted subject to the attached conditions.

RB2009/0663

Installation of 2 No. dormer windows to front and extension to existing dormer window at The Bungalow, First Avenue, East Dene for Mr. Kamran Arif.

RECOMMENDATION: REFUSE

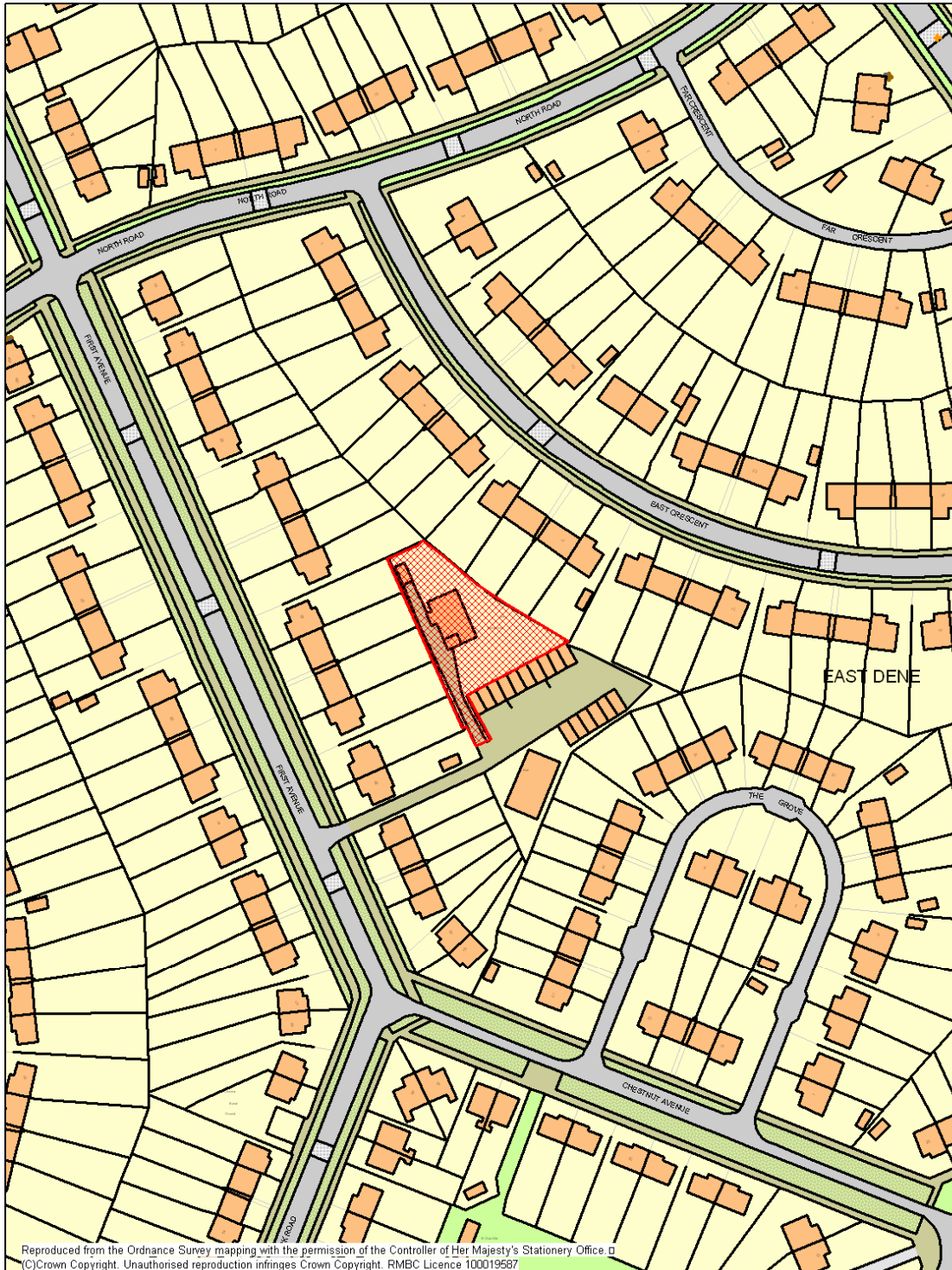
Reasons for Refusal:

01

The Council considers that the two proposed front dormer windows located within 5 metres of the boundary with the rear gardens of properties on First Avenue would unacceptably increase the level of overlooking to these properties. The dormer windows will serve a habitable room and thereby have a detrimental impact on the living conditions by virtue of their position with those occupiers. As such, the proposal is contrary to Development Plan Policy ENV3.1 'Development and the Environment' and adopted Supplementary Planning Guidance - Housing Guidance 1: Householder development'.

02

The Council also considers that the proposed dormer windows by virtue of their size, shape, and flat-roof design on the front elevation of the property are detrimental to the visual appearance of the locality and do not make a positive contribution to the environment. As such, the proposal is contrary to UDP Policy ENV3.1 - Development and the Environment and the adopted Supplementary Planning Guidance - Housing Guidance 1: Householder development'.



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Rawmarsh Road □
Rotherham S60 1TD □
□



Background

Members will recall that in 2006 (RB2006/1674) a retrospective application to erect an elongated front dormer window across the roof elevation was refused at Planning Board. The reasons for refusal were as follows:

01

The proposed dormer windows by virtue of their size, shape, design and position in relation to the host building are detrimental to the visual appearance of the locality and do not make a positive contribution to the environment. As such, the proposal is contrary to UDP Policy ENV3.1 - Development and the Environment and Adopted SPG.

02

The proposed dormer windows by virtue of their position in such close proximity to the rear gardens of properties on First Avenue are unacceptably overlooking the properties of First Avenue to the detriment of the living conditions of those occupiers. As such, the proposal is contrary to UDP Policy ENV3.1 - Development and the Environment and Adopted SPG.

Separate appeals against both the planning refusal and Enforcement Notice were made. Both Planning Inspectors subsequently dismissed the appeal, and indicated that the current excessive size (of the dormer windows) is materially out of scale with the host building. One of the Inspectors went on to state that "the harmful impact of the dormer windows significantly detracts from the character and appearance of the area". In terms of the overlooking issues, the Inspector highlighted that there was likely to be a severe loss of privacy to no. 42 First Avenue as a result of the unauthorised development.

The front dormers were then subsequently removed. In 2007 an application for two smaller dormer windows were approved on the rear (eastern) elevation of the property under application RB2007/1310. These dormers have been installed.

The applicant is now applying for permission for two similar dormer windows to be erected on the front (western) elevation.

Site Description & Location

The application site relates to a detached residential bungalow at First Avenue, East Dene known locally as The Bungalow. The site is approximately 720 square metres in area, roughly twice the size of other terraced properties that adjoin the site. The Bungalow is located within a predominantly residential area that is bounded on three sides by terraced two-storey residential properties and is accessed from an un-adopted track to the south. Although the site is moderately large, The Bungalow is located within 5 metres of the western boundary. It is considered that the western elevation represents the front elevation as this is the elevation with the only entrance door into the property. There is an existing front dormer window on the property that has been in place for more than 10 years.

Proposal

The proposal is to erect two front dormer windows on the western elevation. The dormer windows measure 2 metres in width and 1.2 metres in height. The dormers would be

flat-roofed and project up to the top of the apex of the property. The dormer windows are required to obtain more headroom within the bedroom in the roof space.

Development Plan Allocation and Policy

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

The following UDP Policies are relevant in the determination of the application:

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.

Other Material Considerations

The Supplementary Planning Guidance - Housing Guidance 1: Householder development' is also relevant. This guidance indicates that dormer windows should be modest in scale, and designed to prevent overlooking of neighbours properties. This guidance also notes that dormer windows on front roof elevations should have pitched roofs

Publicity

All relevant neighbours were informed by letter on 8 June 2009. One letter of objection has been received. The objection can be summarised below:

- The dormer windows would directly overlook the rear gardens and lead to a loss of privacy.*

A copy of the representation will be available in the Members Room prior to the meeting.

The applicant has requested the Right to Speak at the meeting.

Consultations

Transportation Unit – no objections

Appraisal

*The principle of residential extension in this location is acceptable.
The main issues in the determination of the application are as follows:*

- The impact on adjoining residents in terms of overlooking.*
- The effect of dormer windows on the character and appearance of the area.*
- The weight to be given to the earlier appeal decisions .*

The impact on adjoining residents in terms of overlooking.

On the previous appeal, the Inspector upheld the Council's reason for refusal on the grounds of overlooking to the private rear gardens along First Avenue.

The proposed dormer windows are smaller than the previously refused application and the current proposals do not project as far down the slope as the previous dormers. However, taking both Inspector's views into consideration, it is still considered that the increase in overlooking would be significant and would have a detrimental impact on the living conditions of the occupiers of First Avenue, in conflict with the advice given in UDP Policy ENV3.1 Development and the Environment and Supplementary Housing Guidance Housing Guidance 1: householder development.

The effect of dormer windows on the character and appearance of the area.

The dormer windows are considered to be relatively small in scale relative to the size and area of the roof. The revised dormer windows are significantly smaller in appearance than the previously refused application. However, although the front elevation is not highly prominent when viewed from First Avenue the proposed dormer windows by having flat roofs on a front elevation are not considered to conform to the design advice provided in Housing Guidance 1: householder development within the SPG. Consequently it is not considered that the proposal is in accordance with this advice and that refusal on design grounds must also be recommended.

The weight to be given to the earlier appeal decisions .

Whilst it is considered that the dormers are an improvement from a design and an overlooking perspective, it is still not considered that the current proposal satisfactorily addresses the concerns that both earlier Inspectors had on the previous appeal decisions.

There are no highway safety issues associated with the proposal and the Transportation Unit have confirmed that they do not have any objections to the proposal.

Conclusion

Overall the increase in overlooking is considered to be significant and the front dormer windows by virtue of their flat-roof design are considered to be unacceptable and the application is recommended for refusal for the above reasons.

RB2009/0675(FUL)

Change of use of premises to Council depot including erection of gatehouse, installation of above ground fuel store, erection of security fencing, lighting and CCTV, formation of hardstanding and salt storage areas and landscaping of the site (application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) on land and buildings off Sandbeck Way, Hellaby for RMBC (Project Management).

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 - Regional Spatial Strategy

- i) SY1 'South Yorkshire Sub Area Policy' aims to continue the transformation of the South Yorkshire economy and to accommodate increased numbers of new jobs and homes.
- ii) ENV1 'Development and Flood Risk' seeks to manage flood risk pro-actively and in allocating areas a sequential approach will be followed.
- iii) ENV3 'Water Quality' seeks to maintain high standards of water quality and prevent development that could pollute surface and underground water resources.
- iv) E3 'Land and Premises for Economic Development' encourages the use of appropriately located previously developed land and current allocations and seeks to ensure the availability of sufficient land and premises in sustainable locations to meet the needs of a modern economy and to take account of the need for land and extended premises to support development of public services.
- v) E5 'Safeguarding Employment' advises Local Development Frameworks should define criteria or areas where it is considered necessary to offer special protection to designated employment sites and should be applied where it can be shown that the employment land is necessary to support Policies YH4, YH5 & YH6.
- vi) T1 'Personal travel reduction and modal shift' seeks to reduce travel demand, traffic growth and congestion, shift to modes with lower environmental impacts, and improve journey time reliability.
- vii) T2 'Parking policy' advises that in order to help manage the demand to travel, support the use of public transport, and improve the quality of place, a consistent approach to parking through the use of maximum parking standards for new developments will be undertaken.

(b) Local Planning Policy in the Unitary Development Plan

- i) EC1.1 'Safeguarding Existing Industrial and Business Areas' seeks to support proposals which safeguard the viability of established industrial and business areas.
- ii) EC3.1 'Land Identified for Industrial and Business Use' identifies that uses falling within Classes B1, B2 and B8 will be acceptable within areas allocated for industrial and business use.
- iii) EC3.3 'Other development within Industrial and Business Areas' accepts that within the sites allocated for industrial and business use subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses development will be accepted.
- iv) ENV2 'Borough Landscape' 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.
- v) ENV3.1 'Development and the Environment' states that development should have a positive effect on the environment.
- vi) ENV3.7 'Control of Pollution' advises that 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.
- vii) T6 'Location and Layout of Development' advises regard must be had to the increasing desirability of reducing travel demand.
- viii) T8 'Access' advises that the access needs of people with mobility and sensory handicaps needs to be met by promoting careful design and improved provision in both the refurbishment and development of buildings.

(c) Other material planning considerations

- i) PPS1 'Delivering Sustainable Development.
- ii) PPG4 'Industrial and Commercial Development and Small Firms'.
- iii) PPS23 'Planning and Pollution Control'.
- iv) PPG24 'Planning and Noise'.
- v) PPS25 'Development and Flood Risk'.

2. For the following reasons:

In principle, the proposed development accords with RSS Policies SY1 'South Yorkshire Sub Policy Area' and E3 'Land and Premises for Economic Development in that that it provides a new depot facility for Rotherham and supports the continuation of public services throughout the Borough. In addition, the proposed development is considered to accord with UDP Policies EC3.1 'Land identified for Industrial and Business Use' in that the site is allocated for Industrial and Business purposes

In terms of National Policy PPG4, it is considered that the proposal accords with the key aim of this national policy document in that it pursues economic

development together with providing environmental improvements by developing a currently underused and part vacant site with a high quality development.

The applicant has demonstrated through the submission of various technical reports that the development would not impact upon highway safety matters; would not be of detriment to adjacent premises or residential occupiers through noise disturbance or light pollution neither would it create or exacerbate flooding matters in the locality or create any adverse air quality matters.

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.

Recommended conditions:

01

No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation, less 30% upon existing rates, has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

02

No development approved by this permission shall be commenced until a scheme for the provision of foul and surface water drainage works including off site works have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

03

The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol interceptors has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

04

Prior to the development being occupied, a pedestrian link between the site and the bus stops in Bawtry Road shall be provided in accordance with details which shall have been submitted to and approved by the Local Planning Authority. Such details shall be implemented as approved.

05

The existing vehicular access to Sandbeck Way marked "X" on the attached plan shall be permanently closed and the kerbline/footway reinstated before the development is brought into use.

06

Unless further approval is granted by the Local Planning Authority the proposed hedge on the Sandbeck Way frontage of the site shall be planted on the southern side of the existing boundary fence.

07

Notwithstanding the details indicated on the submitted plan, a minimum of 15 No. secure cycle lockers and 10 no covered motorcycle parking spaces shall be provided on site the details of which shall be submitted to and approved by the Local Planning

Authority prior to the commencement of the development hereby approved and the approved details shall be provided before the building is occupied and subsequently maintained and retained for the lifetime of the development.

08

[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.

09

[PC24] Before the development is brought into use, that part of the site to be used by vehicles shall be properly constructed with either;

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

All to the satisfaction of the Local Planning Authority and shall thereafter be maintained in a working condition.

10

[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.

11

Prior to the first occupation of the building, full details of the proposed installation, positions and specification of CCTV cameras and coverage areas 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.

12

[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 within a timescale agreed, in writing, by the Local Planning Authority.

13

[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.

14

[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.

15

[PC52] 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.

16

No part of the development hereby permitted shall be occupied until the noise mitigation measures as set out in S & D Garritt noise impact assessment survey dated 20 April 2009 have been provided and implemented in accordance with further details to agreed in writing with the Local Planning Authority. Such approved measures shall be retained and maintained unless further approval is granted by the Local Planning Authority.

Reasons for Conditions:

01

To prevent increased risk of flooding and in accordance with PPS25 Development and Flood Risk', RSS Policy ENV1 'Development and Flood Risk' and UDP Policy ENV3.7 'Control of Pollution'.

02

To prevent increased risk of flooding and in accordance with PPS25 Development and Flood Risk', RSS Policy ENV1 'Development and Flood Risk' and UDP Policy ENV3.7 'Control of Pollution'.

03

To ensure the risk of pollution to the underlying aquifer is reduced to an acceptable level and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

04

In order to promote sustainable transport choices.

05

In the interests of road safety, to ensure that the access is closed immediately it is no longer required.

06

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

07

In order to promote sustainable transport choices.

08

In order to promote sustainable transport choices.

09

[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.

10

[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.

11

To ensure a safe and inclusive environment.

12

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', and ENV3.1 'Development and the Environment'.

13

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', and ENV3.1 'Development and the Environment'.

14

[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'.

15

[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'.

16

To avoid disamenity to the locality and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

Informatives:

01

The applicant is advised to Council's Police Architectural Liaison Officer on (01709) 823822 in relation to discussing the proposed staffing of the gatehouse.

02

INF 11 Control of working practices during construction phase

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

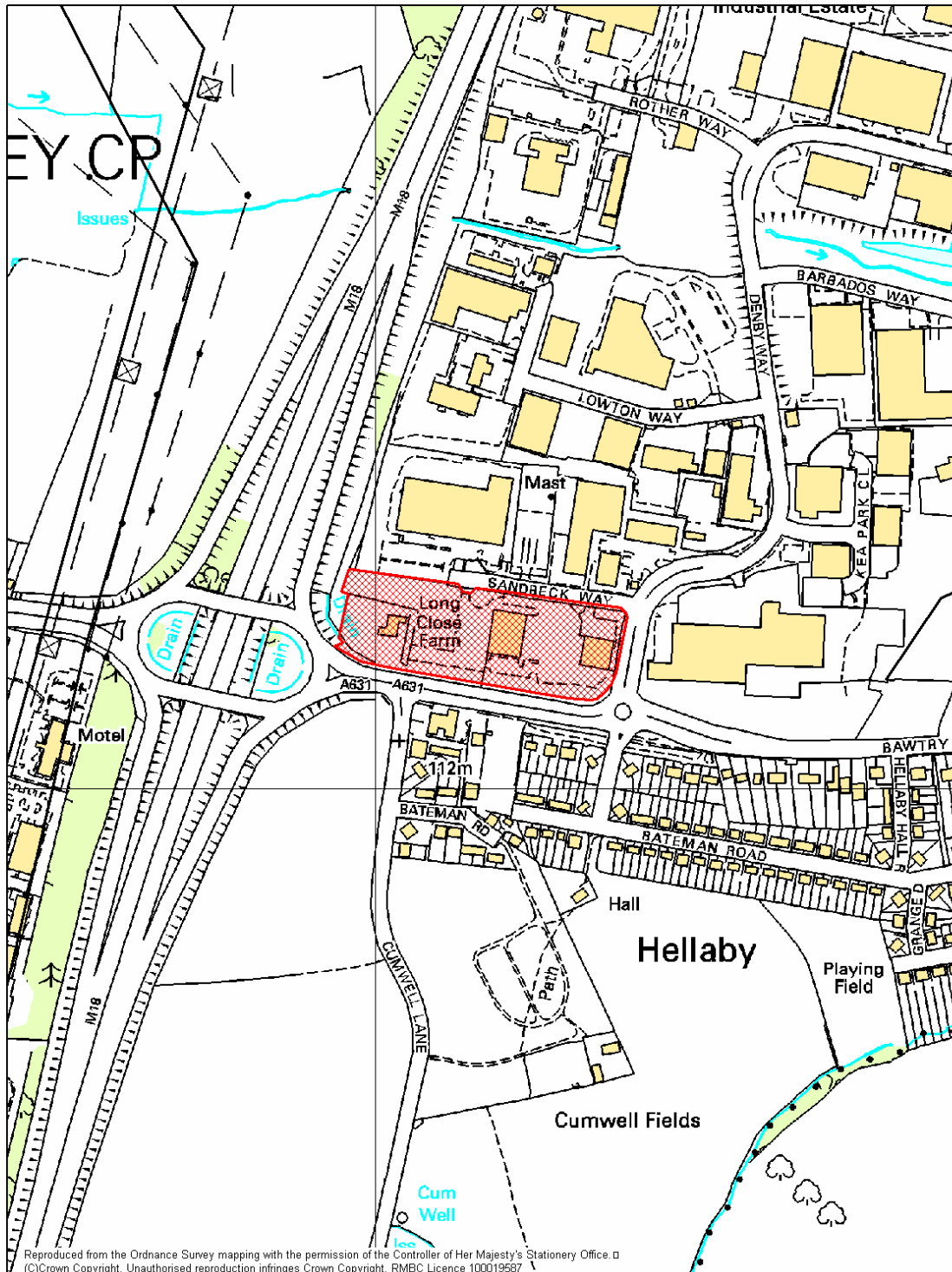
(i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 – 18:00 Monday to Friday and between 09:00 – 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to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

be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

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

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

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



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Scale 1:5000
Date: 15/07/2009
Map Centre: □
450116,392068

Rotherham MBC
Env't & Dev't Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □
□

Rotherham
Metropolitan
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Where Everyone Matters

Background

The site has been the subject of numerous applications relating to its current authorised use as a coach/bus depot and storage facilities. Those most relevant to this application include:-

- RB1983/1672 - Use for manufacture/repair of new & used coaches plant & commercial vehicles etc
Granted conditionally 18/10/84*
- RB1985/1375 - Use of land as commercial vehicle park erection of lighting & portable buildings
Granted conditionally 20/02/86*
- RB1986/0254 - Extension to form increased garage/workshop space with offices stores & staff accommodation
Granted conditionally 24/04/86*
- RB1987/0226 - Relocation of previously approved building
Granted conditionally 24/03/87*
- RB1987/0481 - Additional 6.5m bay extension and office block
Granted conditionally 23/07/87*
- RB1987/1184- Change of use to offices
Granted conditionally 22/10/87*
- RB1988/0163 - Erection of a building for use as a spray & body shop for p.s.v. vehicles
Granted conditionally 28/03/88*
- RB1988/0272 - Office and storage extensions
Granted conditionally 18/05/88*
- RB1989/1978 - Erection of building for coach sales, extend workshop & new external staircase
Granted conditionally 22/02/90*
- RB1990/1261 - Erection of a building for storage of equipment
Refused 01/10/90*
- RB1991/0843 - Use of building as office with storage of equipment & adjacent land as car park
Refused 15/08/91*
- RB1991/1603 - Use of building for business use within Class B1
Granted conditionally 20/12/91*
- RB1998/0623 - Continuation of use of building for Class B1 (Business) use without compliance with condition 1 (permission for the benefit of the applicant only) imposed by R91/1603
Granted conditionally 26/10/98*

*RB2001/1596 - Formation of vehicular access for commercial vehicles
Granted conditionally 02/01/02*

In addition to the above, the building located to the eastern section of the site has further been the subject of application RB2006/1324 for the change of use and extension to form children's indoor play centre which was refused permission on 09/11/06 for the following reasons: -

01

The site is allocated for Industrial and Business Use purposes on the Rotherham Unitary Development Plan and the Council considers that the proposal is unacceptable as it does not satisfy the requirements of UDP Policy EC3.3 'other development within Industrial and Business Areas'.

02

The Council also considers that the occupation of an industrial/business unit for leisure development on a strategic industrial site (Hellaby Industrial Estate) is prejudicial to the aims and objectives in Policy EC1 and EC1.1 to secure and safeguard established industrial and business areas through the central theme of a regeneration strategy highlighted in the adopted Rotherham Unitary Development Plan.

In allowing the subsequent appeal on 29/06/2007, the appointed Inspector considered that the proposal would provide significant employment (in excess of 50 jobs) and that there was no substantive evidence to demonstrate that other more suitable locations are available other than on industrial or business parks. The Inspector further stated that no unacceptable land use conflicts would likely arise and that the proposal would significantly increase the range and quality of employment opportunities in the area.

The above permission whilst extant has yet to implemented.

Environmental Impact

The proposed development falls within the description contained within paragraph 10(b) 'Urban Development Projects' of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and meets the criteria set out in column 2 of the table in that the site exceeds the 0.5 hectare threshold. Therefore consideration has been given as to whether this particular development would be likely to have significant effects upon the environment. In this regard the proposal has been assessed under Schedule 3 of the Regulations (and the guidance contained in paragraph 33 of Circular 2/99) and in this instance it is felt that the development would be of no more than local importance, it is not located in a particularly environmentally sensitive or vulnerable location and does not have unusually complex and potentially hazardous environmental effects.

The Council has accordingly formed the view 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. As such the Local Planning Authority has adopted the opinion that the development is not EIA development as defined in the 1999 Regulations.

Site Description and Location

The site to which this application relates is a roughly rectangular area of land comprising of some 6.12 acres (2.47hectares) and is located on the northern side of Bawtry Road, Hellaby close to Junction 1 of the M18 motorway. The site is currently divided into two distinct areas, with the western section closest to the M18 being

currently unoccupied and until recently containing a small two storey brick built office building (now demolished). The remaining eastern section comprises of open coach storage/parking and associated servicing and office buildings.

The site is accessed off Sandbeck Way which is a cul-de-sac located off the main Denby Way access into the Hellaby Industrial Estate, other buildings in the immediate vicinity include the former chicken processing factory and an HGV washing facility along with a number of general and light industrial operators the mix of which fall within classes B1 (Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) of the Town and Country Planning Use Classes Order 1987 (as amended).

Proposal

The applicant for this proposal is Rotherham MBC and seeks a change of use of the current premises and associated land to use the site as a central depot, incorporating services provided by Streetpride, Translink and Adult Services which are currently located at the Council's existing depots at Greasbrough Road, Hope Street and Wadsworth Road, Bramley. A depot such as this is categorised as 'sui generis' under the Town and Country Planning Use Classes Order 1987 (as amended).

The larger of the two existing buildings at the eastern section of the site is proposed to be retained and refurbished internally to create fleet vehicle maintenance and MOT facilities. The smaller of the two buildings would be used for a mix of covered parking, and associated staff welfare facilities i.e. locker areas, showers and toilets canteen and associated general office accommodation. Some parking facilities would be located within this building for smaller cleansing equipment i.e. small kerbside cleaners etc.

The remaining open areas on the western section of the site are to be used for open parking of approximately 300 vehicles including HGV, refuse, and medium and light commercial vehicles with the additional areas between buildings and the areas to the eastern section of the site further proposed to be used for staff parking (approximately 180 no. car spaces, 10 no. cycle parking spaces; 10no. motorcycle parking spaces and 10 no disabled spaces).

Within the site it is further proposed to install a number of various over ground facilities which include: -

- Salt storage area – this proposes a 31 metre diameter 1.5 metre high concrete ring beam wall which would sit on asphalt or concrete pad with associated salt containment and drainage measures;
- Fuel tank – this proposes a 130,000 dual litres tank (100,000 diesel & 30,000 gas and oil) approximately 3.6 metres by 11.9 metres by 3.6 metres high and would be set on a 19 metre x 5 metre raised concrete base. A total of 4 pumps would be situated on each corner;
- Site fencing – this proposes 2.4 metre high Paladin fencing around the perimeter of the site;
- Weighbridge – comprising a cut out of 3 metres x 0.73 metres x 0.23 metres within the asphalt/concrete pad.
- Security lighting - indicates a mix of pole and building mounted floodlights, those set on poles would be set around the perimeter of the site either on 8 or 12 metre high columns with all lights being directed internally to the site.

- *Security gate house – proposes a 6 metre x 5.2 metres x 3.4 metres high brick built security point set adjacent to the main egress point off Sandbeck Way.*
- *Landscaping – it is proposed to plant a 5 metre wide soft landscaping strip along the Bawtry Road and Denby Way frontages consisting a mix of low shrub land ground cover species planted beneath tree canopies with 23 no. semi mature trees. Areas beneath these trees will be seeded and bulb planted. The existing trees on the Denby Way / Sandbeck Lane frontages will be retained along with the installation of a new 1 metre wide mixed native hedgerow along the Sandbeck Way frontage.*

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

- *Planning Statement:
The Planning Statement demonstrates that the proposals are in accordance with National policies and the Development Plan comprising Regional and Local Plan Policies. On this basis it considers that the granting of planning permission is appropriate.*
- *Design and Access Statement:
The Design and Access Statement sets out the opportunities of locating the depot in this location and demonstrates the potential to re-enforce the relationship between the character of the site and the wider urban setting. The document concludes that the development demonstrates an accessible solution that positively contributes to the rapidly evolving Borough requirements.*
- *Transport Assessment (TA):
The Transport Assessment concludes that whilst the proposed development is predicted to generate a number of trips in the peak morning period it will not exceed 30 vehicles and as such there will not be an adverse effect on the M18 J1/A631 Bawtry Road slip roads and junctions.*

The TA further goes on to state that not all of the development traffic will impact upon the local road network on a daily basis, and as a number of trips will be seasonal and only in use during adverse weather conditions it is not considered that there would be an adverse effect on the A631 Bawtry Road/Denby Way junction arrangement.

The TA additionally goes on to advise that subject to the implementation of the Travel Plan for the development it is considered that there are no sustainable reasons on highways grounds why the proposed development should not be granted planning permission.

- *Travel Plan (TP):
The Travel Plan is a package of measures tailored to the needs of the site which aims to promote greener, cleaner travel choices and reduce reliance on the car. It involves the development of a set of mechanisms, initiatives and targets that together can enable an organisation to reduce the impact of travel and transport on the environment, whilst also achieving a number of other direct business benefits. The Travel Plan submitted in support of this planning application is recommended to the Council as a basis to complement the Rotherham MBC overarching travel plan rather than stand entirely alone and will serve to facilitate a sharing of resources, knowledge and experience. It acknowledges that a*

detailed Travel Plan must be prepared and submitted to Rotherham MBC which can be based upon this framework document.

- **Noise Impact Assessment:**

The Noise Impact Assessment undertaken in line with British Standard 4142 concludes that noise from the depot is predicted to be at least 20 decibels lower than existing background noise levels and advises that noise complaints are unlikely to occur. It does however recognise that in exceptional circumstances (during the requirements to undertake grit salt loading) background night time noise levels may be exceeded in the region of some 10 decibels and therefore the activities may give rise for complaint. This could however be mitigated against by the replacement of reversing 'bleeper' type warning signal with a 'white noise' type and the orientation of the salt barn with its openings to the north. Additionally it is stated that the convenient and practical arrangement of other outdoor 'barriers' i.e. a continuous line of parked vehicles would further ensure that such an infrequent activity would be rated below late night background noise levels.

- **Air Quality Assessment (AQA):**

The Air Quality Assessment undertaken identifies that there are several Air Quality Assessment Management Areas throughout the Borough, none are near to the proposed site, nor has the vicinity of the site been identified as suffering from poor air quality. The AQA concludes that air quality levels will be negligible during construction phases as these only amount to the breaking up of existing hardstanding areas and in respect of operational phases advises owing to the size of the development and predicted traffic generation, the local air quality impact predicted at the worst case receptors i.e. those properties opposite on Bawtry Road concluded that a negligible impact on air quality would occur.

Development Plan Allocation and Policy

The site is allocated for industrial and business purposes in the Unitary Development Plan, the following policies are considered to be of relevance to the determination of this application.

Regional Spatial Strategy

Policy SY1 'South Yorkshire sub area policy' identifies that: Plans, strategies, investment decisions and programmes for the South Yorkshire sub area should:-

1. *Support initiatives to improve the skills and capability of the workforce.*

Policy ENV1 'Development and flood risk' indicates that 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.

Policy ENV3 'Water quality' advocates that the Region will maintain high standards of water quality and plans, strategies, investment decisions and programmes should prevent development that could pollute surface and underground water resources especially in Source Protection Zones and close to above ground water resources of reservoirs and some rivers.

Policy E3 'Land and premises for economic development' advises that plans, strategies, investment decisions and programmes should make use of appropriately located previously developed land and current allocations, and ensure the availability of sufficient land and premises in sustainable locations to meet the needs of a modern economy and in particular take account of:-

- 1. The need for additional floor space for office, retail and leisure uses as indicated by the potential job growth.*
- 2. The ongoing restructuring and modernisation of the manufacturing sector.*
- 3. The need for land and extended premises to support the development of public services, health, sport, leisure, tourism, cultural industries and education as key employment generators and the contribution of mixed use development to employment supply.*

Policy E5 'Safeguarding employment' advises that Local Development Frameworks (LDFs) should define criteria or areas where it is considered necessary to offer special protection to designated employment sites. This approach should be applied when it can be shown that:-

- 1. It is necessary to safeguard employment land on the basis of the demonstrable level of competing demand from the land uses; and*
- 2. The employment land so identified is necessary to support policies YH4, YH5 and YH6; and*
- 3. A review of employment land has been carried out in accordance with policies E1-E4 or the sites are part of an area subject to an agreed master plan*

Policy T1 'Personal travel reduction and modal shift' states that the region will aim to reduce travel demand, traffic growth and congestion, shift to modes with lower environmental impacts, and improve journey time reliability. This will require a range of complementary measures from land-use and transport policies through to measures that discourage inappropriate car use, encourage the use of lower-emission vehicles, reduce energy consumption, secure air quality improvement, improve public transport and accessibility by non-car modes, and promote the highest standards of safety and personal security.

Policy T2 'Parking policy' sets out that in order to help manage the demand to travel, support the use of public transport, and improve the quality of place, the region will have a consistent approach to parking through the use of maximum parking standards for new developments.

Unitary Development Plan Policies

Policy EC1.1 'Safeguarding Existing Industrial and Business Areas' advises that the Council will support proposals which safeguard the viability of established industrial and business areas, including those which seek to improve buildings, infrastructure and the environment.

Policy EC3.1 'Land Identified for Industrial and Business Uses' reveals that within areas allocated on the Proposals Map for industrial and business use, development proposals falling within Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) will be acceptable, subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking

and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses.

Policy EC3.3 'Other Development within Industrial and Business Areas' states that within the sites allocated for industrial and business use on the Proposals Map, other development will be accepted, subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses, where such development can be shown to be ancillary to the primary use of the area, or would provide significant employment and it can be shown that:

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

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

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 ENV3.7 'Control of Pollution' advises that 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.

Policy T6 'Location and Layout of Development' sets out that in considering the location of new development, the Council will have regard to the increasing desirability of reducing travel demand by ensuring that:

- (i) land-uses are consolidated within existing commercial centres and settlement patterns which are already well served by transport infrastructure,*
- (ii) Major trip generating land-uses, such as major employment, leisure, retail and high density residential developments, are located in close proximity to public transport interchanges and service corridors,*
- (iii) The development of sites which cause unacceptable traffic congestion on motorways, and local approach roads and trunk roads is avoided,*
- (iv) Development patterns, where appropriate, provide opportunities for living close to places of work, and*
- (v) A range of services and facilities are available in villages and local centres with safe and convenient access for pedestrians, cyclists and people with disabilities.*

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

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

Other Material Considerations

National Policies

Planning Policy Statement 1 Delivering sustainable development (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Guidance 4 Industrial, commercial development and small firms (PPG4) takes a positive approach to the location of new business developments and assisting small firms through the planning system. The main message is that economic growth and a high-quality environment have to be pursued together. The locational demands of industry should be a key consideration in drawing up plans. Development plans should weigh the importance of industrial and commercial development with that of maintaining and improving environmental quality.

Planning Policy Statement 23 Planning and Pollution Control (PPS23) is intended to complement the pollution control framework under the Pollution Prevention and Control Act 1999 and the PPC Regulations 2000.

Planning Policy Guidance 24 Planning and Noise (PPG24) guides local authorities in England on the use of their planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25 Development and Flood Risk (PPS25) sets out Government policy on development and flood risk. Its aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.

Publicity

The application has been advertised by way of a site notice posted in the vicinity of the site and notification letters to neighbouring properties, the period for commenting expiring on the 3 July 2009. No letters of representation have been received

Consultations

The Transportation Unit considers that the proposals can be supported in highway and transportation terms subject to the recommended conditions requiring:- links between bus stops and the application site; closure of existing access; planting of native hedgerow on the inside of the existing fenced boundaries; provision of secure cycle lockers and covered motorcycle parking spaces within the site; details relating to proposed materials for hard standings; provision/retention of parking layouts and submission of Travel Plan.

South Yorkshire Fire and Safety comment that if the fuel store is going to be bulk diesel storage dispensed to vehicles then a licence would not be required. However if the storage is to be petrol in suitable containers then a licence would have to be applied for from RMBC Environmental Health section (the licensing authority for canned storage). If it is the intention to store bulk petroleum products in a tank, to be dispensed to vehicles/lawn mowers, generators and such like, then an application for a license will need to be applied for through the fire service (the licensing authority for bulk storage).

The Highways Agency offers no comments on the proposals and recommends that steps are taken to secure the implementation of the Travel Plan provided.

Streetpride - Landscape Design: Raise no objections to the proposal subject to the recommended conditions requiring the submission of an appropriate landscaping scheme and maintenance schedule.

Streetpride - Trees & Woodlands: Raise no objections to the proposal subject to the recommended conditions requiring adequate safeguarding of protected trees whilst works are ongoing.

Streetpride – Main Drainage: Notes that surface water flows from the site will be restricted by 30% which is well within the limits and requirements of PPS25 Development and Flood Risk and the Environment Agency requirements. Has no objections subject to conditions.

The Police Architectural Liaison Officer is generally supportive and raises no objections to the scheme. Recommendations are made in respect of the overall height of trees and landscaping to assist with natural surveillance; position of fuel tank being readily visible from outside the site and requests gatehouse be manned 24 hours, 7 days a week.

The Director of Environmental Health Services comments that the mitigation measures submitted with the noise assessment report be implemented ; all lighting should be angled so as not to shine into neighboring properties ; the salt barn should be set on a solid concrete base and permit needs to be obtained in respect of the on site fuel pumps.

The Environment Agency raises no objections to the scheme subject to recommended conditions requiring the submission of schemes for: - surface water run off limitation; surface water drainage works and details of oil/petrol interceptors.

Appraisal

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) Planning and Compulsory Purchase Act 2004.

The main issues to consider in the determination of this application are: -

- *Principle of development;*
- *Impact of the proposed development upon visual amenity;*
- *Highway safety considerations;*
- *Landscaping matters;*
- *Flooding issues; and*
- *Impact on the amenities of surrounding properties*

Principle

This application proposes the redevelopment of currently underused land and the change of use of two existing buildings to form a depot facility comprising of a mix of class B1 (Light industrial/office accommodation), class B2 (general industrial) and class B8 (storage) facilities which will replace the Council's current depots at Greasborough Road, Hope Street and Wadsworth Road.

Policy SY1 of the Regional Spatial Strategy for Yorkshire and the Humber (RSS) recognises that specifically in relation to economic development, Rotherham should "support initiatives to improve the skills and capability of the workforce".

In addition, Policy E3 'Land and Premises for Economic Development' of the RSS states that:-

"Plans, strategies, investment decisions and programmes should make use of appropriately located previously developed land and current allocations, and ensure the availability of sufficient land and premises in sustainable locations to meet the needs of a modern economy and in particular take account of:

...The need for land and extended premises to support the development of public services, health, sport, leisure, tourism, cultural industries and education as key employment generators and the contribution of mixed use development to employment supply.”

It is considered that the proposed development would conform with the aim of both Policy SY1 in providing an updated and consolidated depot facility comprising of a better quality development and with Policy E3 of the RSS in the utilisation of previously developed land to support the development of services that will ultimately be to the benefit of the public in the Borough.

At a local level the application site is allocated in the Unitary Development Plan for Industry and Business Use wherein Policy EC3.1 ‘Land Identified for Industrial and Business Uses’ states that:

“Within areas allocated on the Proposals Map for Industrial and Business Use, development proposals falling within Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) will be acceptable...”

The use of the land and building as proposed do not fall squarely within any of the identified Use Classes as set out in Town & Country Planning (Use Classes) Order 1987 as amended development and therefore can be described as ‘sui generis’. However such a mix of B1, B2 and B8 uses on a site allocated for Industry and Business is considered to be acceptable in principle.

In terms of National Policy PPG4, it is considered that the proposal accords with the key aim of this national policy document in that it pursues economic development together with providing environmental improvements by developing a currently part vacant site with a high quality purpose designed Council depot development.

Impact of the proposed development upon visual amenity

The immediate vicinity of the application site comprises of large industrial buildings to the north of Bawtry Road within the existing established industrial estate which range in scale from single storey industrial units to larger two and three storey warehouses and manufacturing premises. To the south side of Bawtry Road exists the more domestic scale of commercial premise including petrol filling station, as well as two storey residential properties.

The surrounding buildings also vary in terms of design and materials from industrial buildings constructed of metal cladding, brickwork and block work to the residential properties consisting of brick and render. In regards to the proposed development no changes are proposed to the external appearance of the existing buildings with limited alterations proposed to the hardstanding areas surrounding them. In regards to the salt barn this is indicated as a 1.5 metre high bund whilst the gatehouse is proposed to be constructed of brickwork. The above ground fuel storage area has the appearance of a small storage container whilst the proposed 2.4 Paladin security fencing will match that already installed in the area. The proposed 8 and 12 metre high poles to support the proposed floodlighting units are of a slender appearance and will further blend in with the industrial nature of the development.

Overall it is considered that the proposed design, scale and massing of the associated infrastructure is considered appropriate for its location on this prominent gateway approach to the industrial estate and is therefore considered to accord with Policy ENV3.1 of the Unitary Development Plan.

Highway safety

In terms of accessibility, the site is considered to be in a sustainable location being located on a Quality Bus Corridor with good accessibility to public transport and bus stops in the immediate vicinity. Both the Highways Agency and Transportation Unit have undertaken an analysis of the Transport Assessment and conclude that additional vehicular traffic likely to be generated by the proposal is considered unlikely to result in a material adverse impact on the highway network.

The overall number of car parking spaces and the cycle parking area are considered to meet with the Council's standards for car /cycle parking whilst the implementation of the Travel Plan will promote the use of other modes of transport (other than the private car) and will become operational upon occupation of the site.

The outstanding issues surrounding closure of existing accesses and provision of a pedestrian link to the bus stops on Bawtry Road from the site can be controlled via the imposition of suitable conditions.

Landscaping matters

Overall the proposed retention of a 5 metre wide landscape strip along the Bawtry Road frontage and the introduction of 23 semi mature trees and suitable planting with a mix of bulbs and grasses will retain an important 'greened' area to this important gateway setting whilst the retention of the existing trees on the Denby Way / Sandbeck Lane junction and the proposed continuation of a hedgerow along the Sandbeck Way frontage is further welcomed.

Although the exact details of the tree and shrub planting for the site have not yet been finalised conditions securing a full and detailed landscaping scheme and the retention of existing trees is recommended to ensure that an acceptable scheme of planting in this area is achieved.

Flooding issues

The site of application falls within Flood Zone 1 as identified by the Environment Agency Flood Zone Map and is therefore categorised as being of low probability for flooding risk. It is acknowledged that the size of application site exceeds the thresholds for requiring a Flood Risk Assessment (FRA) and a statement and subsequent later addendum via email have been submitted in an attempt to demonstrate as to why a full FRA is not necessary and how the proposed scale of the proposal would not present risks of on/off site flooding should surface water run-off not be effectively managed.

The supporting information acknowledges that the site has not historically flooded with the site located approximately 100 metres above sea level with Hellaby Brook running in an east west axis some 340 metres to the north of Sandbeck Way. In respect of drainage issues it is stated that no changes will occur to the existing buildings as they

have private foul and surface water drains connecting to the existing public sewer in Sandbeck Way.

In regards to the surface water from hard standings whilst the amount of hardstanding area will be marginally more than that existing at the site, this is to be controlled via attenuation tanks and oil/grit interceptors before finally discharging into the public sewers.

The addendum states that the overall design of the drainage systems within the industrial estate is to discharge unrestricted waters into the receiving public sewers (i.e. both foul and surface water). The public surface water sewers then discharge into two balancing ponds within the estate. These ponds contain reed beds which create an additional pollution control measure and are designed to control the surface water discharges from the estate via a weir control which ultimately regulates a flow back into Hellaby Brook.

In view of the above the Environment Agency has raised no objections to the proposals on the grounds that it is not considered that the proposed development would increase flooding to third party land against the requirements of PPS25.

Impact on the amenities of surrounding properties

The Noise Assessment submitted with the application outlines that the noise associated with the vehicle servicing and MOT facility would not be that discernable in noise terms in comparison to the authorised coach repairs that have historically been undertaken within the confines of the existing buildings. In regards to the open areas as this has also historically been used for storage of coaches it is considered that the proposed use for parking of fleet vehicles etc would not add additional noise implications to that previously experienced.

The mitigation measures suggested in the noise assessment in respect of fitting vehicles with an appropriate type of audible reversing mechanism can be controlled through the imposition of a suitable condition and the impact would be reduced further by the parking of vehicles along the southern site boundary to act as a noise 'buffer' and the orientation of the salt barn entrance area.

On the matter of floodlighting, it is noted that all of the proposed 12m lighting columns are set within the proposed open storage areas and are shown to be positioned along the northern and southern boundaries with light being directed into the site. The smaller 8m columns are indicated within the staff parking areas along the north, east and southern site boundaries. In regards to likely impact upon the amenities of both residential and commercial occupiers it is not considered owing to the overall physical separation and distance involved that undue detriment would occur through light spillage and the proposals would not be contrary to the provisions of UDP Policy ENV3.7 'Control of Pollution' in this respect.

In regards to air quality, the submitted Air Quality assessment concluded that the increase in respect of air quality levels will be negligible during construction phases as these only amount to the breaking up of existing hardstanding areas. In respect of operational phases the assessment advises that, owing to the size of the development and predicted traffic generation, the local air quality impact predicted at the worst case receptors i.e. those properties opposite on Bawtry Road, would be negligible. Overall it

is not considered that undue detriment would occur to be contrary to the provisions of UDP Policy ENV3.7 'Control of Pollution' in this respect.

Conclusion

In principle, the proposed development accords with RSS Policies SY1 'South Yorkshire Sub Policy Area' and E3 'Land and Premises for Economic Development in that that it provides a new depot facility for Rotherham and supports the continuation of public services throughout the Borough. In addition, the proposed development is considered to accord with UDP Policies EC3.1 'Land identified for Industrial and Business Use' in that the site is allocated for Industrial and Business purposes

In terms of National Policy PPG4, it is considered that the proposal accords with the key aim of this national policy document in that it pursues economic development together with providing environmental improvements by developing a currently underused and part vacant site with a high quality development.

The applicant has demonstrated through the submission of various technical reports that the development would not impact upon highway safety matters; would not be of detriment to adjacent premises or residential occupiers through noise disturbance or light pollution neither would it create or exacerbate flooding matters in the locality or create any adverse air quality matters.

As such the application is recommended for approval, subject to the recommended condition.

RB2009/0684

Application for non-compliance with conditions 2 (Opening Hours) and 3 (Window Display to be provided at all times) imposed by RB2009/0318 to allow 24 hours opening and no display window to be provided at 97 Main Street, Bramley for Parkcare Homes (No 2) 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) Unitary Development Plan
RET1.2 'Prime Shopping Streets' advises that in prime shopping streets, ground floor use to Class A1 will be limited unless a proposed use contributes to the vitality and viability of the centre and does not undermine its retail character and function.

ENV3.1 'Development and the Environment' states that development should have a positive effect on the environment by achieving an

appropriate standard of design together with regard to the security of ultimate users

ENV3.7 'Control of Pollution' advises that 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.

b) Other material planning considerations

- (i) Government Guidance
Planning Policy Statement 6: 'Planning for Town Centres'

2. For the following reasons:

It is considered that the proposed variation of condition 2 imposed by planning application RB2009/0318 to allow a de-restriction in opening hours to enable 24 hour supervision of occupiers of the proposed flats would not detrimentally impact upon the living conditions of neighbours residing above the premises through noise or disturbance nor would it be of wider detriment to the occupiers of adjacent dwellings and businesses in the immediate vicinity.

Additionally, it is further considered that the proposed variation of condition 3 imposed by planning application RB2009/0318 to provide a permanent window display at ground floor would not be overall detriment to the character and appearance of the building or the vitality of the existing shopping area.

- 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 office use hereby permitted shall not be occupied at any time other than for purposes associated with the main residential element known as The Mews, Bramley and shall not be used either solely or by incorporation of other accommodation, as a separate additional office.

Reasons for Conditions:

01

For the avoidance of doubt as to the scope of this permission and to ensure that the Local Planning Authority retains an element of control over the premises.



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Scale 1:1000
Date: 08/07/2009
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448916,392307



Rotherham MBC
Env't & Dev't Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □
□

Rotherham
Metropolitan
Borough Council
Where Everyone Matters

Background

*RB2004/0723 – Outline application for retail (A1) and residential (C3) development
Granted Conditionally 22/7/04*

*RB2006/0673 - Outline application for the re-development of the site to provide 2 shops, 2 offices and 8 flats.
Withdrawn 25/05/06*

*RB2006/1484 - Outline application for the re-development of the site to form 2 no. A1 retail shops 8 no. flats including siting and means of access.
Granted Conditionally 22/03/07*

*RB2007/1294 - Erection of a two storey building with rooms in the roofspace & dormer windows comprising 2 no. retail shops at ground floor level with 4 no. flats over and erection of a two storey building with rooms in roofspace & dormer windows comprising 4 no. flats
Granted Conditionally 25/10/07*

*RB2009/0318 - Change of use from shop (Use Class A1) to office (Use Class B1)
Granted Conditionally 30/04/09*

Site Description and Location

The premises to which the application refers is the recently constructed (but vacant) shop unit which fronts the one way system on Main Street and forms part of the wider scheme consented above under application reference RB2007/1294. The shop unit concerned is the left hand unit when viewed from the Main Street frontage which comprises of a brick and concrete tiled two and half storey building.

The location of the premises is at the core of the village centre of Bramley having a mix of both commercial business and residential properties in close proximity. Opposite the site is located a convenience store (Class A1) and two hot food takeaways (Class A5) whilst directly adjacent the premises to both sides can be found general retailing (Class A1) premises.

Proposal

The current application seeks non compliance with two of the conditions attached to the recent application RB2009/0318, namely in respect of a relaxation in the proposed opening hours of the premises (condition 2) and the requirement not to provide for a shop window display (condition 3).

In support of the current proposal, the applicant has submitted information relating to the proposed use of the overall development which is to be named 'The Mews'. In summary the site is to be operated as residential supported environment which offers "assistance to persons with learning difficulties through a transitional pathway to supported living and in some cases on to independent living within a community setting". Such a proposal does not require any change of use submission as it falls within the same Use Class (C3) as a dwelling house or flat.

In terms of the status of the office facility, the applicant has further stated that: -

- *The office is required to be separate from the apartments/living accommodation;*
- *The ideal place has been assessed as being the currently authorised integral office space;*
- *The unit is ideal in that access from both the front (off Main Street) and the rear of the unit can be achieved;*

In respect of seeking non compliance with condition 2 (opening hours) the applicant states that: -

- *The office needs to be accessed over a continuous twenty four hour period as documentation and support files would be stored and worked upon;*
- *During 'normal' office hours (09:00 – 17:30) the front entrance would be accessible to all visitors for reviews and meetings etc;*
- *Outside of these hours a potential of 5 - 10 staff could visit the office (dependant upon the needs of the individuals in residence at that time);*
- *During evening and night time, approximately two members of staff would have access to the office; and*
- *Due to shift patterns the anticipated twenty employees would not be on duty at the same time but would be spread over a twenty four hour period.*

Turning to seeking non compliance with condition 3 (shop window display) the applicant states that: -

- *The window is proposed to be dressed with vertical blinds which is not dissimilar to other examples such as financial and professional services; and*
- *It is proposed to install internal security shutters which will be closed after 17:30 to afford staff additional security and privacy.*

Development Plan Allocation and Policy

The site is allocated for Town Centre retailing purposes in the Unitary Development Plan, the following policies are considered to be of relevance to the determination of this application.

Unitary Development Plan Policies

Policy RET1.2 'Prime Shopping Streets' states that in prime shopping streets, the Council will limit ground floor use to Class A1 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) unless a proposed use contributes to the vitality and viability of the centre and does not undermine its retail character and function. In secondary locations in town centres, proposed uses will be acceptable in accordance with Policy RET1."

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 ENV3.7 'Control of Pollution' advises that 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

National Policies

PPS6 'Planning for Town Centres' aims to ensure that a range of uses, including offices, are located in town centres and not more peripheral areas in the interests of the vitality and viability of town centres.

Publicity

The application has been advertised by way of a site notice posted in the vicinity of the site and notification letters to neighbouring properties. One letter of objection has been received from the occupier of 115 Main Street raising objections to:-

- The original plans were for retail shops and flats;*
- The new owners have changed the planned use of this ground floor retailing as well as changing the use of flats to sheltered housing;*
- The designation in the UDP as a Town Centre should retain developments containing retail shops to bring back the vitality of a once thriving village;*
- The introduction of the 2006 traffic scheme has meant that retail services have suffered a meltdown;*
- The Council has made massive mistakes in the planning and implementation of the current traffic scheme;*
- It is the Council's duty to uphold the original planning application for retailing;*
- Three refurbished shops and one new shop have recently been completed and with the exception of one are unoccupied. These two other 'new builds' are needed to be retained as retail shops;*
- Businesses have closed down or moved away from Bramley over the past three years;*

- *It would be detrimental to the village if the Council allow new shops to be used for anything other than retail units;*
- *In the past four years 18 businesses have closed, moved premises or changed ownership with only three businesses relocated in Bramley; and*
- *A long established business – The King Henry is the latest casualty and is now in receivership.*

Bramley Parish Council object to the proposal raising the following points:-

- *The Parish Council has received several letters of representation of objection from members of the local community;*
- *The development has only recently been completed and this proposal is the key to a change of character to the whole of this mixed use development;*
- *Latest proposal will effectively constitute a ring fenced institutional use of the whole development and will not provide the diversity of residents and retail outlets that Bramley needs;*
- *The submitted information makes it clear that the whole development will take on the appearance and ambience of a care home, thereby to the effective exclusion of the general public in this High Street location;*
- *Use of shop premises as a service centre to the adjacent residents and its consequential effect upon the neighbourhood is completely at odds with the original retail proposals;*
- *Proposal includes no shopping provision whatsoever and represents another divergence from the Council's policy of controlling changes from Class A1 within Prime Shopping Streets;*
- *Proposed use of the premises will not provide any service or retail facility to the local community and will make no contribution to the vitality, viability and regeneration of the village centre; and*
- *Several residences neighbour the site of application and their residential amenity will undoubtedly be negatively affected by any late night activity and during Sundays and Bank Holidays.*

Copies of all letters of representation will be available in the Member's Room prior to the Meeting.

The applicant has requested to speak at the Planning Board.

Consultations

The Transportation Unit raises no objections to the removal of conditions 2 and 3.

The Director of Environmental Health raises no objections subject to the imposition of a condition requiring the office to be an ancillary aspect of the main residential development.

Appraisal

The main issues to consider in the determination of this application in respect of non compliance of conditions 2 and 3 are: -

- *The likely impact of unrestricted hours of operation upon the character of the area and upon the amenities of residential premises in close proximity to the application site; and*
- *The loss of an active window display within the identified primary shopping street.*

Impact of opening hours on the character of the area and residential amenity

The long established history of adjacent buildings, which comprise a public house and primarily ground floor retailing with secondary residential accommodation above, has resulted in premises that are often open beyond normal retailing hours and provide a general 'night time' atmosphere. Whilst these uses do not generally contain twenty four hour opening it is not considered that the proposed relaxation in the use of the hours of operation at the site of application will result in the use having a detrimental impact on the character of the area.

The Council has previously accepted that the unit can be used for Class B1 office use under planning permission RB2009/0318. It is considered that the specific office use currently proposed, relating specifically to the management of the flats built over and at the rear of the site, would justify such a twenty four hour operation.

Taking into account the above it is considered that under the circumstances a suitably worded condition is considered necessary and relevant to ensure that the office element is not occupied at any time other than for purposes associated with the main residential element known as 'The Mews', Bramley and shall not be used either solely or by incorporation of other accommodation, as a separate additional office with twenty four hour opening.

Turning to amenity issues and in particularly the impact of the extended hours on the adjacent residential properties, it is considered that the use of the ground floor as an office and the limited numbers of staff proposed (two staff covering a period 20:00 – 08:00 daily) during the night time hours would not be significant. It is considered that the comings and goings to the premises during these hours would not be significant to those occupiers opposite the site as all access would be undertaken at the rear of the premises.

It is noted that the nearest residential property 'The Robins' is set on elevated land to the rear (south) of the application site and it is considered unlikely that such an operation would create significant additional noise and disturbance over and above that of the eight residential flats. Additionally the proposal is not considered to place any undue detrimental effects upon the occupiers of the flats above the office premises through noise and disturbance as, owing to modern construction techniques including soundproofing between the commercial and residential elements of the scheme, these matters have been adequately undertaken as part of the Building Regulations submission. Overall on this matter it is considered that the proposal would be in compliance with the requirements of UDP Policy ENV3.7 which seeks to ensure that the development does not give rise to noise and general disturbance.

The loss of an active window display within the identified primary shopping street

The requirement for the imposition of this condition was originally to ensure that no 'dead' frontage would occur to the Main Street frontage through the implementation of a general office. Although the applicant has indicated that the physical display window is

to be retained and various internal security shutters are to be installed – these do not fall under the definition of development and are therefore exempt from planning control. The applicant has further indicated that during the working day, although it is their intention to install vertical blinds these would still enable views in to the premises thus avoiding an original anticipated ‘dead’ frontage. Overall on this matter it is considered whilst the scheme would not provide a permanent window display at ground floor the suggested alterations would not overall be detrimental to the character and appearance of the building or the vitality of the existing shopping area, indeed other examples on Main Street where this has been undertaken to retailing premises already exist. On this matter it is considered that the proposal would therefore comply with UDP Policies ENV3.1 ‘Development and the Environment’ and RET1.2 ‘Prime Shopping Streets’ and guidance in PPS6 ‘Planning for Town Centres’.

Other matters raised by objectors

The majority of the comments received in relation to this application refer to the principle and appropriateness of the loss of the retail unit which has already been established in the granting of the earlier planning application RB2009/0318 approved at the 30 April 2009 Planning Regulatory Board and are therefore not of material consideration in the determination of the current application.

Conclusion

Taking account of the above, and having regard to both local and national policies it is considered that the proposed variation of condition 2 imposed by planning application RB2009/0318 to allow a de-restriction in opening hours to enable 24 hour supervision of occupiers of the proposed flats is not considered to detrimentally impact upon the living conditions of neighbours residing above the premises through noise or disturbance nor would it be of wider detriment to the occupiers of adjacent dwellings in the immediate vicinity.

Additionally, it is further considered that the proposed variation of condition 3 imposed by planning application RB2009/0318 to provide a permanent window display at ground floor would not overall be detrimental to the character and appearance of the building or the vitality of the existing shopping area.

As such the application is recommended for approval, subject to the recommended condition set out at the commencement of this report.

RB2009/0687

Demolition of existing building and erection of single storey modular building for use as offices and meeting rooms at Wales Parish Rooms, Wales Road, Kiveton Park for Wales Parish Council.

RECOMMENDATION: REFUSE

Reasons for Refusal:

It is considered that the proposed development would by way of its size, design, location and materials be unsuitable for permanent retention on the site and would be materially detrimental to the visual amenities of the area in conflict with Policy ENV 3.1 Development and the Environment of the Unitary Development Plan.



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448356,382793

Rotherham MBC
Env't & Dev't Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □



Background

Temporary planning permission for five years for an office building on the site was granted permission in 1985 (RB1985/283P).

Site Description & Location

The site of application is a small rectangular piece of land adjacent an existing tennis court on Wales recreation ground and contains the existing Wales Parish Council meeting rooms as well as a small separate toilet building. To the north is a car park and Wales Community Centre, to the west is a car park and residential development, whilst to the south is a bowling green and residential curtilages.

Proposal

The application is for the erection of a 24m by 7.2m modular building with a flat roof 3.7m high. Materials will be "Stoneflex Mexican Pink" cladding with white UPVC fascia boards. The application is accompanied by a Design and Access Statement which indicates that the existing meeting rooms are old and too small for the purpose. The new building would also accommodate the Parish Offices, which are currently in the Wales Village Hall but the accommodation is too small. Additionally the Parish Council is precluded from using the Village Hall by The Local Government Act 1972, because it has a full drinks license. The new building would also include a kitchen, disabled access and an office for the Markets Officer, as well as toilets which would replace those in the existing adjacent building that would be demolished.

The applicant has been informed that the Planning Service has concerns about granting a permanent permission for a modular type of building in this prominent location and that a temporary permission may be appropriate to allow for a more permanent building to be erected on the site. The applicant has indicated by a letter in support that the proposed building is a permanent requirement, and would not support a temporary permission.

Development Plan Allocation and Policy

The site is allocated for Urban Greenspace purposes in the UDP and the following Policies are relevant:-

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."

Policy ENV5.1 Allocated Urban Greenspace.

"Development that results in the loss of Urban Greenspace as identified on the Proposals Map will only be permitted if:

- (i) alternative provision of equivalent community benefit and accessibility is made, or*
- (ii) it would enhance the local Urban Greenspace provision, and*
- (iii) it would conform with the requirements of Policy CR2.2, and*
- (iv) it does not conflict with other policies and proposals contained in the Plan in particular those relating to heritage interest.”*

Publicity

The application was advertised on site. Two letters of objection has been received. Points raised are;

- (i) Site ownership, land owned by Wales Recreation Charity.*
- (ii) Temporary building not conducive to the area, and would be an eyesore.*
- (iii) Such a building would be prone to vandalism.*
- (iv) Colour would be intrusive.*
- (v) Prominent location.*

All correspondence will be on deposit in the Members' Room, prior to the meeting.

Consultations

Transportation Unit:

No objections.

Director of Environmental Health:

Recommends, that in the event of planning permission being granted, appropriate conditions to control the working practices during the construction period be attached.

Appraisal

The site of application contains an existing concrete panel building used as Wales Parish Council Meeting Rooms. The land is allocated for Urban Greenspace purposes, and consequently there are two issues relating to the proposal;

- a. The principle of the development.*
- b. The design of the building.*

a. The principle of the development:

The proposed building would provide accommodation and service facilities for the local community, in connection with the Urban Greenspace allocation and local democracy. Additionally whilst the building would result in the loss of existing Urban Greenspace land, the area is relatively small and includes an existing toilet block which will be demolished. Those facilities will be re-provided in the new building. Having regard for these factors it is considered that the proposal will provide equivalent benefit to the community and that there would be no conflict with Policy ENV 5.1 Allocated Urban Greenspace, of the Unitary Development Plan.

b. The design of the building:

The building would be utilitarian in nature, having a flat roof and being of a prefabricated construction. Additionally the location is in a prominent location and readily visible by the public and it is considered that a temporary permission may be appropriate if a more permanent building was ultimately proposed to replace it. However, the applicants have indicated that they wish the building to be retained permanently on the land.

It is therefore considered that the proposal would by way of its size, design, location and materials be materially detrimental to the visual amenities of the area in conflict with Policy ENV 3.1 Development and the Environment.

Conclusion

The proposals would constitute a visually unacceptable construction in the public domain and would be readily visible in the vicinity. It is therefore recommended that permission be refused.

RB2009/0723

Single storey side extension at Hebron, Dean Lane, Dalton for Mrs. J. Chilton.

RECOMMENDATION: GRANT CONDITIONALLY

1. Having regard to the Development Plan and all other relevant material considerations as set out below:
 - a) Development Plan
UDP Policies
ENV1.3 Extensions to dwellings in the Green Belt:
“Extensions to existing dwellings in the Green Belt will only be permitted where the proposed extension represents a minor addition to the original dwelling and is so sited and designed to reflect the architectural style of the original building and/or vernacular styles in the locality”.
 - ENV3.1 Development and the Environment:
“Development will be required to make an acceptable 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”.
- Other relevant material planning considerations:-
- PPG2 Green Belts
- “The visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green belts, might be visually detrimental by reason of their siting, materials or design.”

“Provided that it does not result in disproportionate additions over and above the size of the original building, the extension of alteration of dwellings in not inappropriate in Green Belts.”

UDP SPG Environment Guidance 1: Extensions to dwellings in the Green Belt (as modified March 2001).

“Extensions to dwellings in the Green Belt will need to satisfy the following criteria, the extension will;

- together with all previous extensions, be subsidiary to the original dwelling, not dominate, and be sympathetic in terms of size, scale or design
- have a minimal visual impact on the local setting and amenity
- involve minimal intensification and urbanisation of the site
- not by itself, or together with any existing dwelling create a dwelling which would facilitate the future formation of a separate residential curtilage
- be sympathetic in architectural design in relation to the original building

A for a dwelling or small group of dwellings in the countryside which are relatively isolated from other dwellings, or for a dwelling in a prominent position on the edge of a village “washed over by the Green Belt; be more than 33% of the total floor area of the existing dwelling, excluding the loft, measured externally. This measurement will be of the original structure at the time of construction or that reasonably assumed to be the original structure excluding extensions allowed under the General Permitted Development Order.

B for a dwelling within a village “washed over” by the Green Belt where there is no impact on the openness or character of the Green Belt; be considered on its merits subject to normal development control considerations and householder guidance.

UDP SPG Housing Guidance 1: Householder Development, Adding a single storey side extension:-

“The use of brickwork or stonework of similar type, colour and texture to the existing house will greatly improve the appearance of the extension. A structure of utilitarian appearance will spoil the look of the house;”

2. For the following reasons:

The Council considers that the proposal represents an acceptable form of development that subject to the recommended conditions, will not have a detrimental impact on the amenity of the occupiers of adjacent properties and, given its siting and appearance will not have an adverse impact on the openness of the Green Belt or the character and appearance of the area.

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:

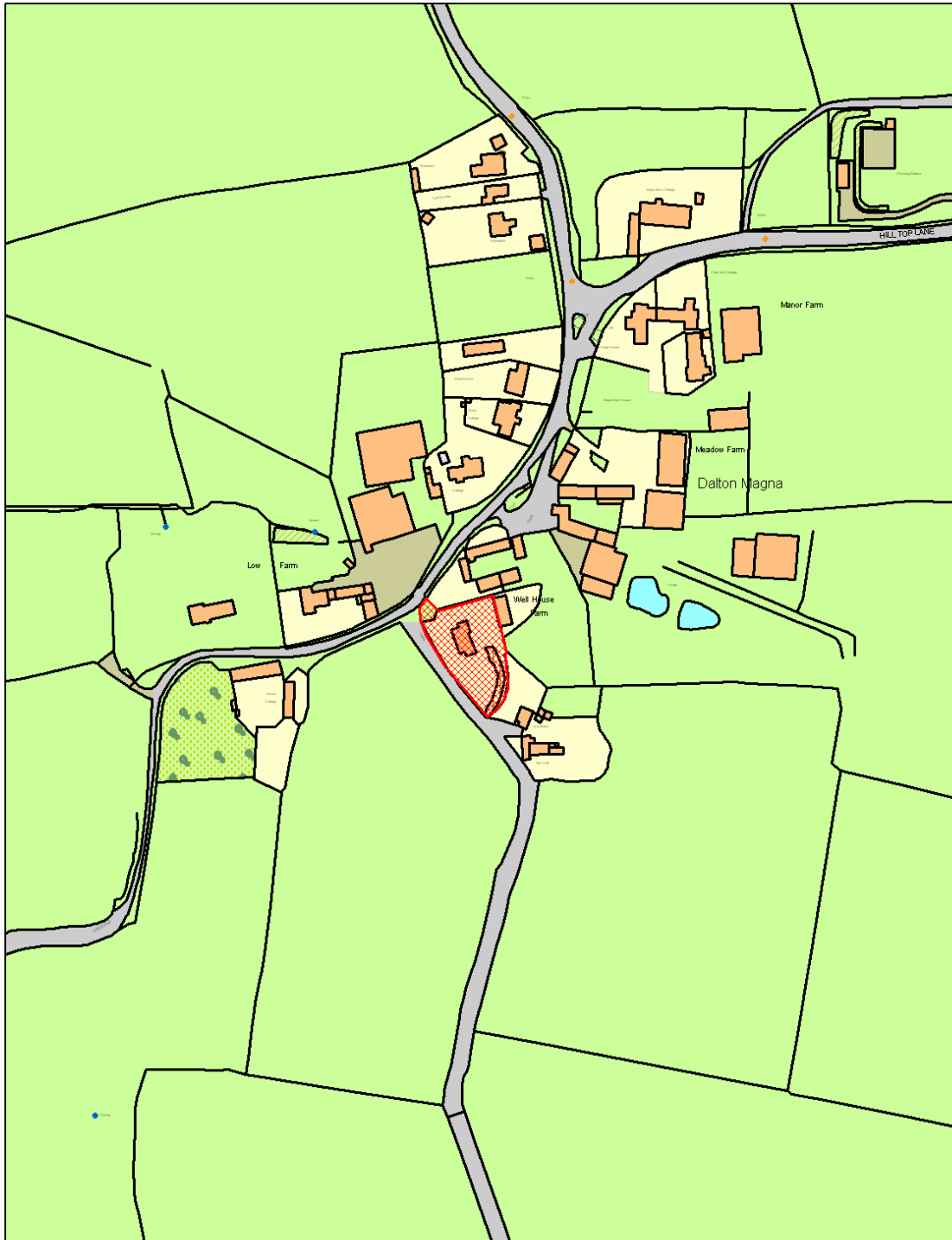
01

[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.

Reasons for Conditions:

01

[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'.



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 <p>Scale 1:2500 Date: 08/07/2009 Map Centre: □ 446647,392980</p>		<p>Rotherham MBC Env't & Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TDD □</p>  <p>Rotherham Metropolitan Borough Council Where Everyone Matters</p>
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Background

No relevant planning history.

Site Description & Location

The proposal relates to a detached dwelling on the outskirts of Dalton Magna village, the property is located within a large plot of land with the principle elevation facing a private access road. The surrounding area consists of a mixture of farmsteads and detached cottages surrounded by open Green Belt land. The property is brick built with a tiled roof over and has a small single storey offshot to the southern elevation. The site boundary is screened by a natural stone wall with mature trees to the south eastern boundary.

Proposal

The application has been submitted by Mrs Chiltern and is being referred to Planning Board due to her daughter being a council employee within Economic and Development Services. The proposal consists of a small addition to the existing property and involves the demolition of most of the existing single storey flat roof extension and the construction of a single storey extension to the southern elevation with a mono pitch roof over.

Development Plan Allocation and Policy

The site is within an area allocated for Green Belt in the Rotherham Unitary Development Plan. The following policies are relevant;

ENV3.1 Development and the Environment applies to this application and states that: "Development will be required to make an acceptable 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".

ENV1.3 Extensions to dwellings in the Green Belt applies to this site and states that: "Extensions to existing dwellings in the Green Belt will only be permitted where the proposed extension represents a minor addition to the original dwelling and is so sited and designed to reflect the architectural style of the original building and/ or vernacular styles in the locality".

Other Material Considerations

Supplementary Planning Guidance – Environment Guidance 1: Extensions to dwellings in the Green Belt (as modified March 2001) is relevant and states;

"Extensions to dwellings in the Green Belt will need to satisfy the following criteria, the extension will;

- (i) together with all previous extensions, be subsidiary to the original dwelling, not dominate, and be sympathetic in terms of size, scale or design
- (ii) have a minimal visual impact on the local setting and amenity
- (iii) involve minimal intensification and urbanisation of the site
- (iv) not by itself, or together with any existing dwelling create a dwelling which would facilitate the future formation of a separate residential curtilage

- (v) *be sympathetic in architectural design in relation to the original building*

A for a dwelling or small group of dwellings in the countryside which are relatively isolated from other dwellings, or for a dwelling in a prominent position on the edge of a village “washed over by the Green Belt;

be more than 33% of the total floor area of the existing dwelling, excluding the loft, measured externally. This measurement will be of the original structure at the time of construction or that reasonably assumed to be the original structure excluding extensions allowed under the General Permitted Development Order.

B for a dwelling within a village “washed over” by the Green Belt where there is no impact on the openness or character of the Green Belt;

be considered on its merits subject to normal development control considerations and householder guidance.

UDP SPG Housing Guidance 1: Householder Development Adding a single storey side extension applies to this application and states that:

“The use of brickwork or stonework of similar type, colour and texture to the existing house will greatly improve the appearance of the extension. A structure of utilitarian appearance will spoil the look of the house;

The use of a pitched roof, with tiles or slates similar to the existing roof, will also improve the appearance of the extension, and is likely to make it more durable than if a flat roof is used;”

PPG2 Green Belts states

“The visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green belts, might be visually detrimental by reason of their siting, materials or design.” And

“Provided that it does not result in disproportionate additions over and above the size of the original building, the extension of alteration of dwellings in not inappropriate in Green Belts.”

Publicity

The occupiers of adjacent dwellings have been notified by letter on 23 June 2009, no representations have been received.

Consultations

The Council's Transportation Unit have been consulted on this application and have confirmed that they have no objections to the proposal in highway terms.

Appraisal

The proposal represents a minor addition to the existing property and the main issues to be considered are;

- *Whether the site falls within paragraph A or B of the guidelines for extensions to houses in the Green Belt as set out above.*
- *Whether the proposed extension is satisfactory in terms of the criteria as set out in Supplementary Planning Guidance Environment Guidance 1: Extensions to dwellings in the Green Belt as detailed above.*

On the first point, the site is located on the edge of the village adjacent to open Green Belt land, and the proposal clearly falls within category A and the 33% guideline therefore applies. In terms of floor space the proposed extension of 28 sq. m. will increase the floor space by 15% over the original floor space of the dwelling.

With regard to the other criteria set out in the supplementary planning guidance, it is considered that the proposal meets this criteria. The main bulk of the proposal is located to the southern side of the dwelling and as such will not be visible from Dean Lane. In terms of its size, scale and design the extension is single storey and is considered to be subservient to the host dwelling.

The dwelling is set within a large plot and the proposal would involve minimal intensification of the site which could not be readily convertible to two or more dwellings.

The proposal is sympathetic in architectural design in relation to the existing dwelling with matching materials and minimal alteration to the front elevation.

There are no immediate neighbour's overlooking the site and the question of residential amenity does not therefore arise in relation to this proposal.

The proposal is not considered to have any detrimental visual impact on the surrounding Green Belt and complies with the guidance set out in PPG2 'Green Belts'. It would not be readily visible from the adjacent Green Belt land and would not adversely impact upon the openness of the Green Belt.

Conclusion

The proposal is considered to represent an acceptable addition to the existing property which would comply with the policies and guidance as set out above and would not be detrimental the appearance of the host property or the openness of the Green Belt.

RB2009/0734

Erection of a two storey & single storey building comprising 5 No. flats with associated parking and bin store at land to rear 293 Kimberworth Road, Kimberworth for Robinson Court Properties 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
UDP Policies

HG1 'Existing Housing Areas' seeks to ensure residential development has no adverse effect on the character of the area or on residential amenity.

HG4.3 'Windfall Sites' determines residential development in light of their location within the existing built-up area.

HG4.8 'Flats, Bed-siting Rooms and Houses in Multiple Occupation' states that the creation of flats will be permitted provided that a concentration of this type of accommodation does not seriously interfere with the amenities of existing residents and adequate parking and manoeuvring facilities are provided.

HG5 'The Residential Environment' states that the Council will encourage best practice in housing layout and design.

ENV3.1 'Development and the Environment' seeks to ensure all development makes a positive contribution to the environment by achieving an appropriate standard of design.

- b) SPG 'Housing Guidance 3: Residential infill plots' sets out the Council's inter-house spacing standards of 20 metres between principal elevations, 12 metres between an elevation with a habitable room window and an elevation with no habitable room windows, while no elevation within 10 metres of a boundary with another property should have a habitable room at first floor.

PPS1 'Delivering Sustainable Development' promotes good design that is appropriate in its context and improves the character and quality of an area.

PPS3 'Housing' indicates development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

2. For the following reasons:

Having regard to the site's residential allocation and the adjacent existing infill development the proposed residential development is considered acceptable in land use terms given the current policies of the UDP.

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 an area.

It is further considered that the proposal by virtue of its size, scale, form, design, mass and siting would have no adverse impact on the amenity of neighbouring residents as the proposal is not considered to be of an overbearing nature, nor would it result in an overdominant feature in the locality and it would not result in an adverse amount of overshadowing or overlooking. Accordingly, the proposal would satisfy UDP Policies HG1, HG4.8 and ENV3.1, which require development to not have an adverse effect or seriously interfere with the amenities of existing residents and SPG 'Housing Guidance 3: Residential infill plots'.

Furthermore, the proposal would cause no unacceptable loss of highway safety. It would therefore comply with UDP Policies HG1, HG4.3 and HG4.8, which require development to make adequate arrangements for the off-street parking and manoeuvring of vehicles.

With regard to the earlier refused scheme the revised submission satisfactorily addresses the Inspector's only concern in respect of loss of privacy (Appeal Ref: APP/P4415/A/09/2093438).

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.

(Site layout plan received 13 July 2009 and Elevational plans, received 11 June 2009)

02

[PC52] 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.

03

[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.

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

[PC94] 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.

06

Prior to the commencement of development, details of cycle parking facilities shall be submitted to and approved by the Local Planning Authority in accordance with the Council's Cycle Parking Guidelines and the approved details shall be implemented before the development is brought into use.

07

[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 within a timescale agreed, in writing, by the Local Planning Authority.

08

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

09

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.

10

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

11

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

12

[WC31*] Except in case of emergency, no operations shall take place on site other than between the hours of 0800 and 1800 Monday to Friday and between 0900 and 1300 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

13

[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.

14

[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.

Reasons for Conditions:

01

[PR97] To define the permission and for the avoidance of doubt.

02

[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'.

03

[PR24B] To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity and in accordance with UDP Policy HG5 'The Residential Environment'.

04

[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

[PR94] In order to promote sustainable transport choices.

06

In order to promote sustainable transport.

07

[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'.

08

In the interest of satisfactory and sustainable drainage.

09

To ensure that the development can be properly drained.

10

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

11

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.

12

In the interests of local amenity.

13

In the interests of local amenity.

14

[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'.

Informatives:

01

INF 30 Provisions for Fire Appliances

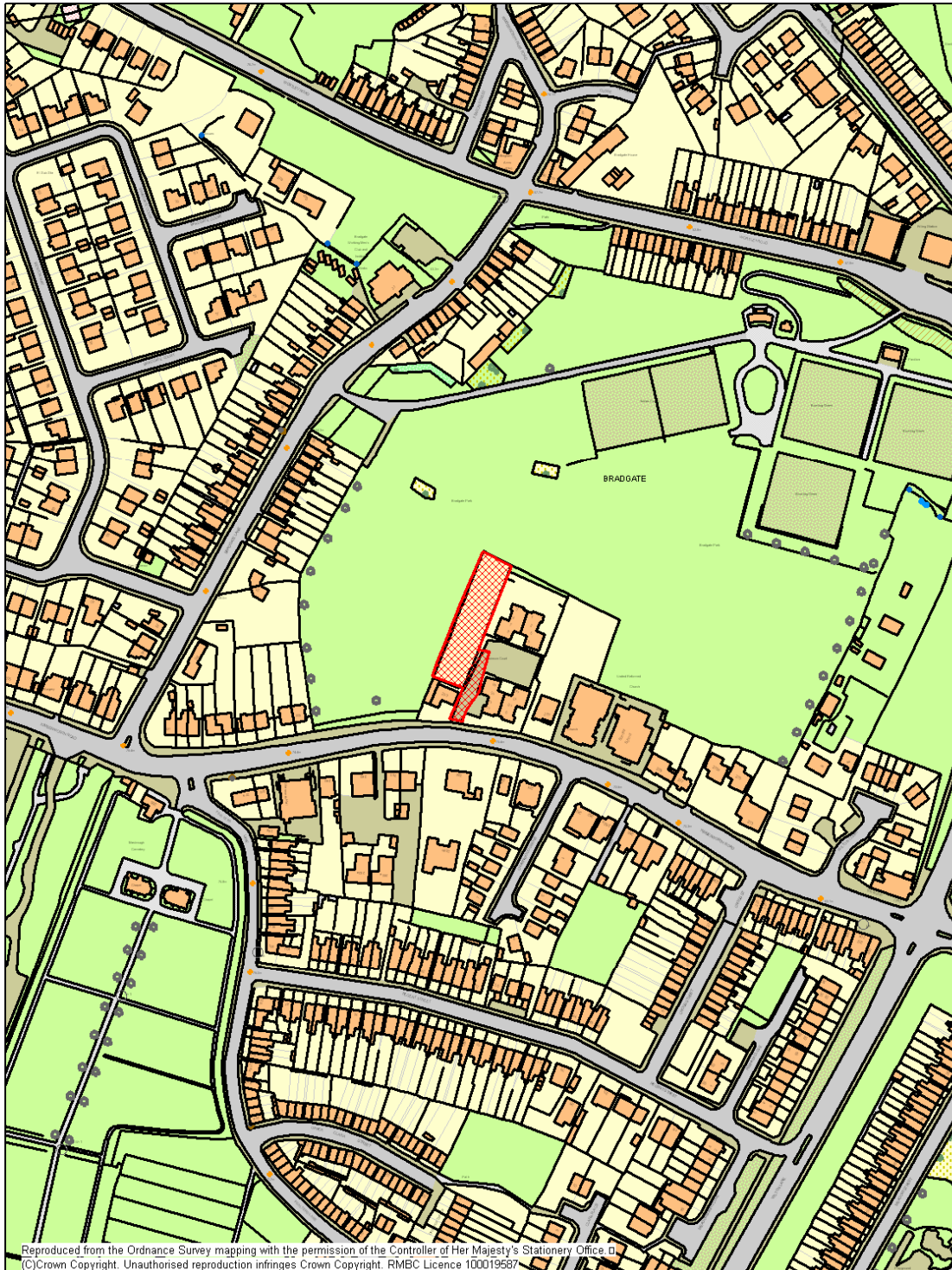
The granting of this permission does not override any requirement to provide a turning head for a fire appliance in accordance with any Building Regulations submission.

02

The developer is advised to contact the relevant drainage authorities with a view to establishing a suitable watercourse for the disposal of surface water. It is understood that a culverted watercourse is located to the north of the site. This appears to be the obvious place for surface water to be disposed.

03

The developer is advised that the site should be developed to achieve Secured by Design (SBD) certification. More information can be found at www.securedbydesign.com



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Bailey House □
Rawmarsh Road □
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□

Rotherham
Metropolitan
Borough Council
Where Everyone Matters

Background

There has been one previous planning application submitted for this site, the details are given below:

RB2008/1532 – Erection of a two-storey building comprising 6 no. flats with associated parking and bin store at land to rear of 293 Kimberworth Road – Refused by Planning Board on 20 November 2008 and dismissed at appeal on 7 May 2009.

A summary of the Inspector's concerns are detailed below:

- A first floor bedroom window in the side elevation of the proposed flat would afford views of and cause an unacceptable loss of privacy within the amenity area to rear of the existing block of flats next door.*
- The separation distance between the proposed block and side elevation of the existing flats in block containing 1-8 would be approximately 12 metres which would be contrary to the Council's inter-house spacing standards of 20 metres between elevations with habitable room windows. The Inspector considered that the development could potentially cause a loss of privacy inside the facing flats.*
- The height and bulk of the building would be lessened by its siting on lower land and its hipped roof. However, it would still be visibly higher than the boundary wall and given its nearness to the boundary, the extent to which it would project past flats 1-8 and its position to the west, it would be likely to appear obtrusive and overbearing from, and cast an afternoon shadow over the adjoining amenity space and would cause an unacceptable loss of outlook and light.*

Therefore, the Inspector's main issues were related to amenity issues, it is of note that, the Inspector concluded that the design and form of the proposed block was acceptable as it would relate well to the existing flat units and the Inspector also raised no concerns with regard to any highway issues.

Site Description & Location

The application site comprises the majority 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 eight 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.

To the west and north of the proposed building is Bradgate Park which is a public open space with recreation and play facilities.

To the south of the site is no. 293 Kimberworth Road which 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 of the land, in addition the dwelling has a conservatory to the rear.

Proposal

The current application has been designed to address the Inspector's concerns highlighted in the recent dismissed appeal, these alterations are summarised below:

- i) moved the building approximately 1 metre further away from the side elevation of the existing flat block than the previous application to achieve the Council's inter-house spacing standards;
- ii) ensured that the section of the building which projects beyond the rear elevation of the existing flat block to the rear of the site is reduced in height to a single-storey, to reduce any potential afternoon shadow;
- iii) removed all habitable room windows at first floor on the elevation facing the existing flats, to alleviate any fears of overlooking and loss of privacy to existing and future occupiers of the building;
- iv) increased the residual rear garden of no. 293 Kimberworth Road to provide a greater separation distance and a larger residual garden for 293, and
- v) increased and improved the boundary treatment and tree planting.

The current application is for the erection of a two-storey and single-storey building comprising 5 flats with associated parking and bin store in the rear garden of 293 Kimberworth Road.

The proposed building would be 10 metres in width and 26 metres in length and would be sited approximately 2 metres in front of the building line of the existing rear block of flats. The side elevation of the proposed flats would be 9 metres and 13 metres from the side elevation of the existing rear block of flats, 14 metres from residual rear boundary of 293 Kimberworth Road, 31 metres to the rear elevation of No. 293, 2.5 metres from the western boundary of the site with Bradgate Park and 12 metres from the northern boundary of the site with Bradgate Park.

The proposed building would be predominantly two-storey however the section which projects beyond the existing block of flats would be single-storey with a hipped roof in keeping with the rest of the proposed building and the adjacent flat buildings at Robinson Court.

The elevation facing the existing flats would have a regular window pattern of 4 single casement obscure glazed bathroom and en-suite windows at first floor and 4 triple casement habitable room windows, a single casement window and a double casement window at ground floor. The elevation which would be visible when coming down the access road to the site would have three windows at first floor and two windows and a single door at ground floor. The northern elevation fronting Bradgate Park would have one 'Juliet Balcony' at ground floor, with several other windows. The long, western elevation which would front Bradgate Park would have a number of openings in a fairly regular pattern, with the main features being the two walk-out balconies at first floor level, similar to the ones in the neighbouring flat blocks.

The building is proposed to be constructed in brick to match the existing blocks and the roof shall be covered with a dark grey flat tile.

The site will be accessed, both by vehicles and pedestrians from the existing private drive at the front of the site off Kimberworth Road into Robinson Court and access to the proposed parking area will be taken from the same place as the previously refused scheme, which is at the end of the access drive directly adjacent the existing parking area.

The mature planting and trees lining the existing boundaries of the site are to be retained. The proposal will result in a private amenity space to the rear of the proposed block of approximately 11.5 metres by 15 metres.

On the boundary fronting Bradgate Park a 2 metre high wall similar to the one existing fronting Kimberworth Road, of 800mm brick wall with brick pillars and wrought iron railings is proposed.

The existing wall between the application site and the existing flats of Robinson Court will remain and only a small opening will be created in order to gain access to the parking area which would be sited between the proposed block of flats and the residual rear garden of No. 293 Kimberworth Road. The parking area will create 7 parking spaces, one of which will be for disabled uses, for the 5 flats proposed and 3 parking spaces for No. 293 Kimberworth Park.

The proposal will result in no. 293 having a rear garden of approximately 13 metres and 9 metre in length.

Development Plan Allocation and Policy

The application site is allocated within the adopted Unitary Development Plan (UDP) of the Council for residential use.

The proposed development hereby submitted shall be assessed against the tests and requirements detailed within the following UDP Policies:

UDP Policy HG1 'Existing Housing Areas' which seeks to ensure only those proposals which have no adverse effect on the character of the area or on residential amenity; are in keeping with the character of the area in terms of scale, layout and intensity of use and make adequate arrangements for parking and manoeuvring of vehicles associated with the proposed development.

UDP Policy HG4.3 'Windfall Sites' which states the Council will determine proposals for housing development in light of their location within the existing built up area and compatibility with adjoining uses, as well as the development's compatibility with other relevant policies and guidance.

UDP Policy HG4.8 'Flats, Bed-sitting Rooms and Houses in Multiple Occupation' which states the Council will permit the creation of flats...provided that a concentration of these forms of accommodation does not seriously interfere with the amenities of existing residents and adequate provision is incorporated into any development to accommodate off-street parking for residents'.

UDP Policy ENV3.1 'Development and the Environment' which seeks to ensure all development makes 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.

Other Material Considerations

In addition, to the above the Council's inter-house spacing standards outlined within the adopted Supplementary Planning Guidance (SPG) section 'Housing Guidance 3:

Residential infill plots' will also be applicable in determining this application. The SPG states that there should be a minimum of 20 metres between principal elevations, 12 metres between an elevation with habitable room windows and an elevation with none, while no elevation within 10 metres of a boundary with another property should contain a habitable room window at first floor.

Additionally, PPS1 states that good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development and design which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Moreover, PPS3 indicates that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

Publicity

The application has been advertised by way of a site notice posted at the front of the site on a lamppost on Kimberworth Road. In addition, occupiers of neighbouring flats and dwellings have been notified in writing.

One letter of objection has been received; the issues raised are detailed below:

- The new plans still show that the new building would still go past our present homes and not in line with it. Some existing residents would be looking out of their windows onto a new building with windows.*
- Concerns over the access to and from our homes if and when work begins.*
- The increased vehicular movements the new build will create will cause mayhem at the top of the drive.*
- The new plans show that there will be 6 parking spaces for 5 flats, how is this enough where are they going to park?*
- The parking spaces in Robinson Court are for the current residents and not for another 5 flats. There are 3 spaces for 293 and I don't know why, they have nothing to do with Robinson Court, and how are they going to get to them?*

A copy of the letter will be available in the Members Room prior to the meeting.

Consultations

The Transportation Unit of the Council have no objection subject to conditions.

Yorkshire Water has no objections subject to conditions.

Architectural Liaison Officer has no objections in principle subject to recommendations of how to achieve Secured by Design.

Appraisal

The proposed development is a resubmission of a similar proposal which was recently refused and dismissed at Appeal. It is considered that the main issues that need to be addressed in the determination of the current application are:

- Principle*

- *Design issues*
- *Amenity issues*
- *Highway issues*

Principle

The development hereby proposed is for the erection of a two-storey and single-storey, hipped roof building to form 5 flats with associated parking on land to the rear of no. 293 Kimberworth Road and directly adjacent two existing apartment blocks within the complex known as Robinson Court which was granted planning permission in 1999.

The site of the proposed apartment block is currently the rear garden of no. 293 Kimberworth Road and as such is classed as 'previously developed land' or 'Brownfield' as defined within Annex B of PPS3 'Housing'. The site is allocated for residential within the Council's adopted UDP; therefore residential development on this land is considered to be the preferred form of development and is acceptable from a land use perspective.

It is further considered that the proposed block of 5 apartments would comply with the tests outlined within UDP Policies HG1, HG4.3 and HG5 by virtue of the fact that the primary residential use of the area would be retained. Furthermore, given the location of the site in relation to surrounding areas it is considered that residential development on this particular site will co-exist satisfactorily with adjoining land uses and the introduction of a two-storey building comprising 5 apartments in this locality is considered to not seriously interfere with the amenities of occupiers of existing neighbouring apartments and dwellings.

Therefore, with the above in mind the proposed development would be acceptable in principle.

Design issues

The proposed building would be predominantly two-storey, although the section of the building which projects beyond the rear elevation of the existing block of flats adjacent will be single-storey. The proposed building would have a different shape to the adjoining blocks, but would be compatible with them in terms of overall scale and design. Like the existing buildings, it would be of a similar height 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. Therefore it is considered that the proposed developed would be in keeping with and would integrate visually with the existing apartment scheme.

When seen from Kimberworth Road, 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 proposed development would have a sympathetic relationship to adjoining buildings and the general suburban context of the site.

With the above in mind it is considered 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 an area.

Amenity issues

The proposed apartment block would be sited in the existing rear garden of no. 293 Kimberworth Road, which slopes heavily downwards from the rear of the no. 293 to the northern boundary of the site. The proposal will result in no. 293 having a rear garden of between 9 metres and 13 metres in length from the conservatory and 16 metres in width. The development proposes a private amenity space to the rear of the building approximately 15 metres wide by between 12 and 14 metres in length. This is considered to be an appropriate amount of private amenity space for both the occupiers of no. 293 and the proposed flats when taking into account that the building is directly adjacent a large public park.

The SPG section 'Housing Guidance 3: Residential infill plots' outlines the Council's inter-house spacing standards. The section states that there should be 20 metres between principal elevations, 12 metres between an elevation with habitable room windows and an elevation with no habitable room windows and no elevation within 10 metres of a boundary with another property should have a habitable room window at first floor.

The side elevation of the proposed flats which has no habitable room windows would be 9 metres from the side elevation of the existing flats to the east which has no habitable room windows and 13 metres to the side elevation of the existing flats which has habitable room windows at first floor. As such there would be more than 12 metres between an elevation with habitable room windows and an elevation with no habitable room windows.

Furthermore, the building would be 14 metres from the boundary of the residual rear garden of no. 293 Kimberworth Road, 27 metres from the conservatory of no. 293 and 31 metres from the original rear elevation of no. 293. Accordingly, there would be no habitable room windows within 10 metres of a boundary with another property and there would be more than 20 metres between principal elevations.

Therefore, with the above in mind the proposal would be in full compliance with the requirements outlined within SPG 'Housing Guidance 3: Residential infill plots' and the proposal would not give rise to any overlooking or loss of privacy to the existing and future occupiers of no. 293 and the existing flats and the future occupiers of the proposed flats.

In addition, it is considered that the issues raised by the Inspector in terms of the previous proposal creating an afternoon shadow and the potential for overlooking and a disamenity to existing residents have been taken into account in the design and siting of the proposal, by increasing the distance between elevations, ensuring that the elevation facing the existing flats have no habitable room windows and the rear element of the building having a single-storey form. As such, it is considered that the proposal by virtue of its size, scale, form, design, mass and siting would have no adverse impact on

the amenity of neighbouring residents as the proposal is not considered to be of an overbearing nature, nor does it result in an overdominant feature in the locality and it would not result in an adverse amount of overshadowing of the private amenity space to the rear of the existing flats, especially during the afternoon. Accordingly, the proposal would satisfy UDP Policies HG1, HG4.8 and ENV3.1, which require development to not have an adverse effect or seriously interfere with the amenities of existing residents

Highway issues

The proposed development would increase the amount of traffic using the existing drive to Robinson Court. There would be 7 parking spaces for the flats, which is 2 less than the previous scheme and 3 spaces for the occupiers of no. 293 Kimberworth Road, so the access would serve 22 rather than 16 dwellings and 33 rather than 24 parking spaces. The access would be 5.5 metres wide which is considered to be ample room for a car to be driven past a pedestrian, another car or even a van or truck.

Furthermore, the Council's Highways department have raised no objections to the proposal, subject to several conditions relating to, surfacing material being permeable, the parking layout to be constructed as set out on the plans, details of cycle parking facilities being submitted and approved and a scheme for promoting sustainable transport modes being attached to any approval.

The issues raised by the objector in terms of the access drive, parking numbers and highway safety have been taken into account, however given the comments of the Inspector on the previous scheme and the Council's Transportation Unit on the current scheme it is considered that the proposed development would cause no unacceptable loss of highway safety and would comply with UDP Policies HG1, HG4.3 and HG4.8 which require development to make adequate arrangements for the off-street parking and manoeuvring of vehicles.

Conclusion

Having taken into account all of the above it is considered that the proposed development has satisfied the Inspectors concerns by amending the siting, layout and form of the development. In addition, it is considered that the proposal would be in full compliance with the requirements of the relevant Government guidance, UDP Policies and SPG document. Therefore, it is considered that the proposed development in this amended form is supported and is recommended for approval subject to recommended conditions.

To the Chairman and Members of the
PLANNING REGULATORY BOARD

23rd July, 2009

Report of the Director of Planning and Regeneration Service

ITEM NO. SUBJECT

1 Ref: RB2008/1548

Page No. Appeal Decision – Appeal Dismissed
190

Appeal against refusal of planning permission for the erection of a detached dwellinghouse at 50 Webster Crescent, Kimberworth, Rotherham for Mr. Naylor.

2 Ref: RB2008/1591

Page No. Appeal Decision – Appeal Allowed
194

Appeal against Condition 3 attached to planning approval RB2008/1591 which states that: The window close to the apex on the elevation of the extension facing north-east shall be glazed with obscure glass and fixed other than for a top light opening, all in accordance with details to be submitted to and approved by Local Planning Authority, and shall not at any time be glazed with clear glass without the prior written agreement of the Local Planning Authority at 12 Wentworth Close, Thorpe Hesley for Mr. Bracken.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE

23RD JULY 2009

Item 1

Ref: RB2008/1548

Appeal Decision – Appeal Dismissed

Appeal against refusal of planning permission for the erection of a detached dwellinghouse at 50 Webster Crescent, Kimberworth, Rotherham for Mr. Naylor.

Recommendation:-

That the decision to dismiss the appeal be noted

Background

The application (RB2008/1548) was refused under delegated powers on 10 November 2008 for the following reasons:

01

The proposed development by reason of its size, scale, form and detailed appearance is unsympathetic to the context of the site, is of a poor relationship with adjacent properties and the streetscene in general and fails to take 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

In addition, the Council consider that the proposed eastern elevation of the proposed dwellinghouse at 11.5 metres in close proximity to the side boundary with No. 50 Webster Crescent, its rear elevation and private amenity space would result in an overbearing and over dominant elevation to the detriment of the existing and proposed occupiers of No. 50 when viewed from the rear windows of No. 50 itself and its rear garden.

The appeal against the refusal was submitted 7 April 2009.

Main Issues

The Inspector indicates that there are 2 main issues to be considered in the determination of the appeal. The main issues are:

- (a) the effect of the proposed development on the character and appearance of the streetscene and surrounding area; and*
- (b) the effect of the proposed development on living conditions of the occupiers of No. 50 Webster Crescent, paying particular attention to visual impact.*

Reasons

Effect on the Character and Appearance of the Streetscene and the Surrounding Area

The Inspector outlines the Council's view that the proposed dwelling would be unsympathetic to the context of the site, would have a poor relationship with adjacent properties and the streetscene in general and fails to take the opportunities available for improving the character of the area.

The Inspector states the original character of the entire loop of Webster Crescent had been derived from a limited number of distinct property styles of largely semi-detached and detached dwellings, but many of the properties have now been extended. The variety in scale, size and design of those extensions has resulted in considerable modification of the original few basic styles and has led to the creation of many significantly enlarged dwellings and an overall sense of quite densely packed built form. Furthermore, the extensive alterations and extensions to so many of the properties has resulted in changes to the fairly original roof forms, introducing varied pitches on certain dwellings and complex roofing styles and arrangements on others.

The Inspector details that the proposed dwelling would be sited off one of the two turning heads at bends within the loop. As part of the scheme, the present double width carport and single garage to the rear of part of that carport would be demolished. At present there is a gated access to a hardstanding area to the side of the carport, with trees to the rear and also alongside the public footpath from the far corner of the turning head. The Inspector states that with regard to the above and although the proposed dwelling would nearly fill the width of the plot to the side of the house at No 50, it would be set back such that most of the front wall would be behind the main rear wall of the original dwelling at No 50. Furthermore, while the proposed house would be both wider and deeper than the main house at No 50, because it would be set back with respect to that dwelling and No 52 Webster Crescent, the Inspector is of the opinion that it would not be unduly prominent in the streetscene.

Moreover, the Inspector states that 'given the existing arrangement of a number of set back properties around the other turning head off the next bend in Webster Crescent, the proposed development would not appear unduly out of place in terms of its siting. In addition, notwithstanding the flats to the rear at higher level, it would fill what is currently a rather awkward gap in the housing layout at the level of Webster Crescent and make it appear more of a complete arrangement of built form'.

The Inspector also notes the Council's comments about the size of the original property and the extent of later additions at No 52 Webster Crescent and while the Inspector acknowledged the Council's comments and accepted that the site area of the proposal and the plot size at No 52 are different, this would not be readily apparent in the majority of views from the road and would not lead to the proposed dwelling appearing unacceptably large compared to others nearby.

The Inspector considers that the proposed roof design although not gable fronted would not be so out of place that it would have an adverse impact on the character and appearance of the streetscene.

Overall, the Inspector considers that the proposal would not be particularly unsympathetic to the context of its site or have a poor relationship with the adjacent properties. Moreover, the Inspector states that the dwelling would occupy what is currently an awkward gap in a generally densely built up area and that there would be visual improvements through the tidying up of an overgrown area and demolition of a carport with proportions that appear at odds with the proportions of the existing main dwelling, as such the Inspector does not share the Council's view that it would fail to take the opportunities available for improving the character of the area.

The Inspector therefore concludes that the proposed development would not significantly harm the character or appearance of the streetscene or surrounding area. As such, in this regard the Inspector further concludes that there would be no serious conflict with the intentions of Policies HG1, HG5 or ENV3.1 of the UDP.

Effect on the Living Conditions of the Occupiers of No 50 Webster Crescent

The Inspector states that 'Apart from a small front section of garage, the proposed dwelling would be set behind the rear of the main dwelling at No 50 with respect to the main run of Webster Crescent. There is a conservatory on the part of the rear of No 50 which is adjacent to the boundary with No 48 Webster Crescent and a single-storey projection on the outer edge of the dwelling. To the rear of the conservatory is a patio area and beyond that garden area which is well screened by vegetation along the rear boundary'.

The Inspector notes that from the part of the garden that would be retained for the use of the occupiers of No 50, the proposed dwelling would appear very close. Furthermore, the proposed building would be of substantial depth and as almost all of the flank elevation adjacent to No 50 would be two-storey with

a ridge height of over 7 metres. With this in mind the Inspector is of the opinion that the dwelling would appear overbearing and oppressive when in the rear garden area of No 50, further to this, it would appear unduly dominating when seen from the conservatory and kitchen on the rear of that existing dwelling.

The Inspector indicates that even if the conservatory were to be demolished, the effect on the outlook of the neighbouring occupiers at No 50 when in their garden would still be unacceptably overpowering and the oppressive visual impact, if the appeal were to be allowed, would seriously harm the enjoyment by occupiers of No 50 of their dwelling and garden.

The Inspector concludes that the proposed building would be too large and close to be acceptable in terms of the effect on the living conditions of future occupiers of No 50, even taking into account that such prospective occupiers would be aware of the visual relationship with the appeal dwelling prior to occupation. The Inspector further concludes, in this regard, that the proposed development would be contrary to the relevant part of criterion (i) of Policy HG1 of the UDP and to the intention in UDP Policy HG5 to enhance the quality of the residential environment, as well as to the main consideration of the SPG to prevent demonstrable harm to the amenities of the occupiers of any existing dwelling.

The Inspector also notes the Council's comments relating to the likely creation of afternoon shadow over the majority of the garden that would remain at No 50 and the Inspector shares the Council's concerns in this respect and considers that this would add to the harm to the living conditions of occupiers of that existing property.

Conclusion

The Inspector states that 'Notwithstanding my considerations with regard to the effect on the character and appearance of the locality, I nevertheless find the determining issue in this appeal to be the significant harm the proposed development would cause to the living conditions of the occupiers of No 50 Webster Crescent through unacceptable visual impact'.

Therefore, having had regard to all matters raised, for the reasons given above, the Inspector concludes that the appeal should be dismissed.

Item 2

Ref: RB2008/1591

Appeal Decision – Appeal Allowed

Appeal against Condition 3 attached to planning approval RB2008/1591 which states that: The window close to the apex on the elevation of the extension facing north-east shall be glazed with obscure glass and fixed other than for a top light opening, all in accordance with details to be submitted to and approved by Local Planning Authority, and shall not at any time be glazed with clear glass without the prior written agreement of the Local Planning Authority at 12 Wentworth Close, Thorpe Hesley for Mr. Bracken.

Recommendation:-

That the decision to allow the appeal be noted

Background

A retrospective planning application was received on 7 October 2008 for a two-storey side extension at 12 Wentworth Close (Application ref: RB2008/1591). The application was recommended to Members for approval subject to the following conditions:

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.

(Drawing number FLC/0254/06, received 6 October 2008)

02

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no further windows or openings shall be inserted into the extension hereby approved without the prior written approval of the Local Planning Authority.

The application went to Planning Board on 11 December 2008 and after visiting the site Members voted to grant the application subject to a further condition:-

03

The window close to the apex on the elevation of the extension facing north east shall be glazed with obscure glass and fixed other than for a

top light opening, all in accordance with details to be submitted to and approved by the Local Planning Authority, and shall not at any time be glazed with clear glass without the prior written agreement of the Local Planning Authority.

The applicant lodged an appeal against Condition 3 on 12 March 2009 requesting the condition to be omitted from the approval.

Main Issues

The Inspector in considering the appeal indicated that the main issue is the effect of removing condition 3 on the living conditions of neighbouring residents, with particular reference to privacy.

Reasons

The development includes a two-storey side extension sited to the north eastern side of no. 12 Wentworth Close to provide a dining room and bedroom at ground and first floors respectively. In addition to windows in the side elevation opening into these rooms, a further window is included close to the apex of the roof, which opens into the loft space. It is this window that is referred to in Condition 3.

The Inspector notes the concerns of nearby residents, in particular the occupiers of no. 32 Barnsley Road, that this window would lead to overlooking of, and loss of privacy within, their garden and dwelling. The side elevation of the extension is more than 10 metres from the boundary with no. 32 and around 28.5 metres from its rear elevation. The Council's SPG 'Housing Guidance 3: Residential infill plots', recommends that normal inter-house spacing should be observed, that is 20 metres minimum between principal elevations or 12 metres between a principal elevation and an elevation with no habitable room windows.

No. 12 Wentworth Close is in an elevated position. Although substantial planting exists along the boundary between no. 12 and no. 32 Barnsley Road, the window close to the apex of the roof is visible from within the rear garden and dwelling at no. 32. Nevertheless, the Inspector states that given the loft space is not to be used as a habitable room, along with the distance between the side elevation of the two-storey extension and the rear elevation of no. 32 Barnsley Road, she does not consider that the installation of clear glazing within this window would lead to any undue overlooking or loss of privacy within the neighbouring dwelling or its rear garden area. Indeed, from her site visit, the Inspector states that it was apparent that rear elevations of properties on the north eastern side of Wentworth Close are somewhat closer to the rear elevations of properties fronting onto Barnsley Road than the two-storey side extension is to the rear elevation of no. 32. Even taking into account the existing boundary planting, the size of the window and that it is at second floor level, the Inspector is satisfied that sufficient distance exists between the two properties to prevent any material overlooking of, and loss of privacy to, the occupiers of no. 32 within their dwelling and rear garden.

Decision

The Inspector concludes that removing condition 3 would not harm the living conditions of neighbouring residents, with particular reference to privacy, as such the development accords with Policy ENV3.1 of the Rotherham UDP.

The Inspector therefore allows the appeal, and varies the planning permission ref: RB2008/1591 for a two-storey side extension, deleting condition 3.



probity in planning:
the role of councillors
and officers – revised
guidance note on
good planning practice
for councillors and
officers dealing with
planning matters

contents

- 1 foreword
- 2 introduction
- 3 general role and conduct of councillors and officers
- 4 registration and declaration of interests: Predetermination, Predisposition or Bias
- 5 development proposals submitted by councillors and officers; and council development
- 6 lobbying of and by councillors
- 7 pre-application discussions
- 8 officer reports to committee
- 9 public speaking at committees
- 10 decisions contrary to officer recommendations
- 11 committee site visits
- 12 regular review of decisions
- 13 complaint and record keeping
- 14 list of references

foreword

- 1.1 Planning has a positive and proactive role to play at the heart of local government. It is a powerful tool that helps councils achieve the ambitions of local communities. Good planning stimulates growth and promotes innovation. It helps to translate goals for healthier communities, higher employment, better housing, reduced congestion, educational attainment, safe and sustainable communities into action through well-designed medical centres, offices, universities, homes, roads and other facilities vital to achieving them.

The planning system works best when the roles and responsibilities of the many players essential to its effective operation are clearly understood. It is vital that elected councillors and planning officers understand their roles and the context and constraints in which they operate.

- 1.2 Planning decisions involve balancing:

- the needs and interests of individual constituents and the community, with
- the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals.

The challenge of achieving the balance between these dual roles led the LGA to issue its original *Probity in*

planning guidance note in 1997. However, since then a comprehensive ethical framework for local government was introduced following the Local Government Act 2000. A revised national code of conduct for councillors was introduced in 2007. Each authority is required to adopt a local code of conduct that sets out rules governing the behaviour of its members.

This 2009 update provides refreshed advice on achieving this balance in the light of such changes. It also better reflects local authorities' roles as place shapers and the enhanced role for councillors as champions of their local communities. It recognises councillors' ability to participate in discussions prior to the receipt of a planning application on behalf of their communities, and engaging in spatial planning policy formulation.

It provides advice on this following the Killian Pretty review's recommendations. It also advises on how to avoid predetermination or bias in decision making. Whilst the advice is designed primarily for officers and councillors involved in plan-making and development management, it will also assist scrutiny and standards committees dealing with planning matters.

introduction

- 2.1 A lot has changed in expectations of the planning system since the previous LGA guidance was published.
- 2.2 Following the planning green and white papers, and subsequent legislation, planning is moving to the heart of local authorities place-shaping and community planning roles. Positive attitudes to harnessing the benefits of sustainable development are changing stereotyped images of planning as a control mechanism. More flexible and responsive development plans are being prepared to harness development to build communities and shape places.
- 2.3 Councillors are encouraged to act as champions of their local communities and to co-ordinate public service delivery through Local and Multi Area Agreements, Strategic Partnerships, and Sustainable Community Strategies. Creative place-shaping requires early and wide engagement and councillor and officer involvement. The 2008 LGA publication *Planning at the heart of local government* explains these changes in more detail.
- 2.4 This guidance is intended to facilitate the development of councillors' community engagement roles. The Nolan report resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. However in the place-shaping context, early councillor engagement is now positively encouraged to ensure sustainable development proposals can be harnessed to produce the settlements that communities need.
- 2.5 This guidance is intended to amplify the following for councillors grasping these new opportunities:
- Standards Board for England 2007 *members guide on the code of conduct and occasional paper on predisposition, predetermination and bias*;
 - Association of Council Secretaries and Solicitors *Model member's planning code of good practice 2007*; and the
 - Planning Advisory Service *Effective engagement* advice.
- 2.6 Planning decisions are not based on an exact science. Rather, they rely on informed judgement within a firm policy context. Decisions can be highly controversial as they affect the daily lives of everyone. This is heightened by the openness of the system (it actually invites public opinion before taking decisions) and the legal nature of the development plan and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.

- 2.7 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
- 2.8 Bearing in mind all these factors, it is not surprising that, from time to time, things can go wrong unless councils are on their guard. This is why this guidance is essential.
- 2.9 The intention of the guidance is not to suggest that there is one best way of doing things. Local circumstances may well provide good reasons for local variations of policy and practice. However, each council should review the way in which it conducts its planning business, holding in mind the recommendations of this guidance.
- 2.10 This guidance refers to the actions of a planning committee of an authority, as the main decision-making forum on planning matters. However, it is recognised that authorities have developed a range of alternative forms of decision-making: area committees; planning boards, and of course, the full council itself - as the final arbiter in planning matters. It is important to stress, therefore, that the advice in this guidance note applies equally to these alternative forms of decision-making arrangements. Indeed, it becomes very important if the full council is determining planning applications referred to it, or adopting local development documents, that councillors taking those decisions understand the importance of this guidance. The guidance also applies to councillor involvement in any planning enforcement.
- 2.11 This revised guidance note is useful to both councillors and officers who become involved in operating the planning system - it is not therefore restricted to professional town planners and planning committee members. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

the general role and conduct of councillors and officers

- 3.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the council as a whole. Officers advise councillors and the council and carry out the council's work. They are employed by the council, not by individual councillors. It follows that instructions may only be given to officers through a decision of the council or its executive or a committee. Any other system which develops is open to question. A successful relationship between councillors and officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised.
- 3.2 Both councillors and officers are guided by codes of conduct. The code of conduct for members (the code), supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Staff who are Chartered Town Planners are guided by the RTPI's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. However, not all planning officers are members of the RTPI and it is therefore recommended that the Code of Professional Conduct (or those parts of it which are relevant) is incorporated into conditions of employment. In addition to these codes, a council's standing orders set down rules which govern the conduct of council business.
- 3.3 The code sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests, as well as appropriate relationships with other members, staff and the public. This impacts on the way in which councillors participate in the planning process. Of particular relevance to councillors making decisions on planning applications and planning policies is paragraph 6(a) which states that a member:
- “must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage.”*
- 3.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst councillors should take account of these views,

they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.

- 3.5 Councillors should also be very cautious about accepting gifts and hospitality. The code requires any members receiving, in their capacity as members, any gift or hospitality over the value of £25, to provide written notification of the details to the monitoring officer of the council within 28 days of its receipt. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.
- 3.6 Similarly, officers, during the course of carrying out their duties, may be offered hospitality from people with an interest in a planning proposal. Wherever possible, offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the council's monitoring officer. Failure by an officer to make an entry is likely to lead to disciplinary measures.
- 3.7 Employees must always act impartially. In order to ensure that senior officers do so, the Local Government and

Housing Act 1989 enables restrictions to be set on their outside activities, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

- 3.8 Staff must act impartially as a requirement of the draft statutory employees' code. Such impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the code. Members are placed under a requirement by paragraphs 2(b) and (c) of the code to: treat others with respect; and not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 3.9 Finally, planning legislation and guidance can be complex. The LGA endorses the good practice of many councils which ensures that their members receive training on the planning process when first serving on the planning committee. It also recommends that members be updated regularly on changes to legislation or procedures. Such training is essential for those members involved in making decisions on planning applications and on local development documents. Authorities should provide training on the planning processes for all members.

registration and declaration of interests: predetermination, predisposition or bias

- 4.1 The Local Government Act 2000 and the national code place requirements on members on the registration and declaration of their interests, as well as the consequences for the member's participation in consideration of an issue, in the light of those interests. For full guidance on personal and prejudicial interests reference should be made to the Standard's Board *Code of Conduct guidance* 2007. In addition, advice may be sought from the council's monitoring officer. The requirements must be followed scrupulously and councillors should review their situation regularly. However, ultimate responsibility for fulfilling the requirements rests individually with each councillor.
- 4.2 The provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts.
- 4.3 A register of members' interests will be maintained by the council's monitoring officer, which will be available for public inspection. A member must provide the monitoring officer with written details of relevant interests within 28 days of their election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.
- 4.4 An interest can either be personal or personal and prejudicial. The 2007 national code defines personal and prejudicial interests in any matter under discussion, and should be referred to for the appropriate detail. A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant factors and taking into account other viewpoints. Sections 6.4 and 6.5 of this guidance further illustrate the concepts of bias and predetermination.

- 4.5 A prejudicial interest would require withdrawal of the councillor from the committee. However, an exception has been included in the 2007 code. Where a councillor has a prejudicial interest in any business of the authority, they may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose. Paragraph 5.3 of this guidance advises on this when a councillor is submitting a planning application to their authority.
- 4.6 If a councillor with a prejudicial interest speaks at a committee, they should withdraw after they have spoken. This is to ensure that members of the committee do not, by their presence, influence or seek to influence the remainder of the decision-making body.
- 4.7 The exceptions made to the definition of personal interests in the code, relating to membership of outside bodies, are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.
- In addition, this clause was intended to allow councillors to exercise their representative function and make representations on behalf of their constituents, in cases where they have a personal and prejudicial interest.
- 4.8 A personal interest will not require withdrawal. Where a member considers they have a personal interest in a matter, they must always declare it, but it does not follow that the personal interest debar the member from participation in the discussion.
- 4.9 In addition to any declaring personal or prejudicial interests, members of a planning committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application. The Standards Board has provided guidance on predetermination, predisposition and bias. Avoidance of bias or predetermination is a principle of natural justice which the decision-maker is expected to embrace by the courts. But councillors will often form an initial impression or view.

A distinction is drawn by the courts between a planning councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination), and a predisposition to an initial view, but where the councillor is clear they are willing to listen to all the material considerations presented at the committee before deciding on how to exercise their vote on behalf of the community. In the latter case there is no predetermination. This distinction is helpfully explained by the Standards Board for England in an occasional paper.

4.10 If a planning committee councillor has been lobbied by friends or others and wishes to pre-determine their position to promote or oppose a planning application, they will need to consider whether this has become a personal interest or not. Whether or not it is a personal interest, they need to consider if their view is likely to be regarded as pre-determined and against the fair determination of the planning application. If they have pre-determined their position, they should avoid being part of the decision-making body for that application.

4.11 A ward councillor who is also a member of the planning committee wishing to campaign for or against a proposal could speak at a planning committee on behalf of their constituents, having declared their pre-determined position. The councillor can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their normal planning committee membership. However they would have to declare their position and not take part in the vote to avoid accusations of bias.

4.12 Cabinets and executives have created an interesting situation for cabinet members, portfolio holders and leaders who are also members of the planning application or local development document planning decision body. Authorities will typically have a member responsible for development. If that member is on the authority's planning committee or other decision-making body for planning matters, there may be occasions when that member will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that executive member be able to vote on any planning application relating to that development?

4.13 The appropriate action is not clear cut, and will depend on the circumstances of a particular case. However, the general advice is that a member in such circumstances may well be so committed to a particular development as the result of their cabinet/executive responsibility that they may not be able to demonstrate that they are able to take account of all material considerations before a final decision on a planning application is reached. The member may be seen as the chief advocate on behalf of the authority for the development in question. In that sense, the member almost represents the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.

4.14 Given the significance of well-informed and appropriate judgments by members on the declaration of interests, predetermination predisposition and bias, it is strongly recommended that councils should hold annual seminars on the issue, and on the planning process generally. Many do this.

The Standards Board nationally, and the authority's standards committee locally, have the statutory responsibility of promoting and maintaining high standards of conduct by members and assisting them to observe the authority's statutory code of conduct. In providing such guidance and training to members at local level, the standards committee of the authority should be encouraged to include provision for the implications of the code and this guidance in planning matters to be considered.

development proposals submitted by councillors and officers; and council development

- 5.1 Proposals to their own authority by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. So can proposals for a council's own development. Proposals can take the form of either planning applications or development plan proposals.
- 5.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by councillors and planning officers:
- serving councillors who act as agents for people pursuing planning matters within their authority should not play a part in the decision-making process for those proposals. Similarly, if they submit their own proposal to their authority they should play no part in its decision making;
 - a system should be devised to identify such proposals;
 - the council's monitoring officer should be informed of such proposals;
 - proposals should be reported to the planning committee as main items and not dealt with by officers under delegated powers.
- 5.3 The consideration of a proposal from a councillor in such circumstances would be considered as a prejudicial interest under the code and as such, the councillor would be required to withdraw from any consideration of the matter. The code also provides that the councillor should 'not seek improperly to influence a decision about the matter'. It is important to emphasise here that 'improperly' does not imply that a councillor should have any fewer rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a committee.
- However, whilst a member with a prejudicial interest may now address the committee under the code if the public enjoy the same rights, the member should consider whether it would be wise to do so in all the circumstances of the case, which could include the nature of the prejudicial interest and the relationship of the councillor with the remainder of the planning committee.
- 5.4 Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers . A member whose cabinet/executive responsibility effectively makes them an advocate for the development in question almost represents the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.

lobbying of and by councillors

- 6.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the planning committee. As the Nolan Committee's third report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves". Any guidance failing to take account of the realities of the political/representative process will not carry credibility with experienced elected members.
- 6.2 However, lobbying can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved. When being lobbied, councillors (members of the planning committee in particular) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at committee.
- 6.3 Concerns on poor practices within local authorities have often been based on the issue of lobbying.
- 6.4 Councillors, and members of the planning committee in particular, need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, members taking the decision will take account of all the evidence presented before arriving at a decision, and will avoid committing themselves one way or another before hearing all the arguments. To do otherwise makes them vulnerable to an accusation of partiality. Bias or the appearance of bias has to be avoided by the decision-maker. Whilst the determination of a planning application is not strictly a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is,

nevertheless, a formal administrative process involving application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review on the way in which a decision has been arrived at; or complain to the Local Government Ombudsman on grounds of mal-administration; or that a member has breached the code.

- 6.5 In reality of course, members will often form an initial view (a predisposition) about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the planning committee's proceedings as set out in the paragraph above, is that members of the committee (at least those who are not councillors of the affected ward - see overleaf) should not decide or declare which way they may be inclined to vote in advance of the planning meeting, or before hearing evidence and arguments on both sides.
- 6.6 Political reality suggests that it is often important to distinguish between the role of the planning committee member who is, and who is not, a ward member for the area affected by a particular planning application.

A planning committee member who does not represent the ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application may be, and to wait until the committee meeting before declaring one way or another.

- 6.7 A planning committee member who represents a ward affected by an application may be in a difficult position if it is a controversial matter on which a lot of lobbying takes place. If the member responds to lobbying by deciding to go public in support of a particular outcome - or even campaigning actively for it - they will have predetermined their position when the committee comes to take a decision on the application. The risk of perceived bias means that the proper course of action for such a member would be not to vote.
- 6.8 As explained previously, even where a councillor has a prejudicial interest in any business of the authority, they may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose.

- 6.9 A ward councillor who is also a member of the planning committee wishing to campaign for or against a proposal could speak at a planning committee on behalf of their constituents, having declared their pre-determined position. A pre-determined councillor can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their planning committee membership. If that councillor speaks on behalf of a lobby group at the decision-making committee, they would be well advised to withdraw once any public or ward member speaking opportunities had been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.
- 6.10 Councils should consider the provision of arrangements for the planning committee to hear representations from a ward member in circumstances where that member takes the view that it would be inappropriate to vote, if these are not already dealt with in the council's procedures. (See also section 9 on public speaking at planning committees).
- 6.11 It should be evident from the previous paragraphs that it is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual member.

6.12 Any local code or guidance of planning good practice should also address the following more specific issues about lobbying:

- given that the point at which a decision on a planning application is made cannot occur before the planning committee meeting, when all available information is to hand and has been duly considered, no political group meeting should be used to decide how councillors should vote. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration;
- with the exception in some circumstances of ward councillors, whose position has already been covered in the preceding paragraphs, planning committee councillors should in general avoid organising support for or against a planning application, and avoid lobbying other councillors. Such actions can easily be misunderstood by parties to the application and to the general public;
- councillors should not put improper pressure on officers for a particular recommendation, and, as required by the code, should not do anything which compromises, or is likely to compromise, the officers' impartiality. Officers acting under the council's delegation scheme

to determine an application or making recommendations for decision by committee, are required to be impartial. It is therefore important, as reflected in the code, for councillors to refrain from seeking to influence the outcome of the officer's decision or recommendation;

- call-in procedures, whereby members can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committees, should include provisions requiring the reasons for call in to be expressed in writing so that there is a record of decision, and should refer solely to matters of material planning concern.

pre-application discussions

- 7.1 Discussions between a potential applicant and a council prior to the submission of an application can be of considerable benefit to both parties and are encouraged. However, it would be easy for such discussions to become, or to be seen by objectors to become part of a lobbying process on the part of the applicant.
- 7.2 With the recognition of the need to allow and encourage councillors to be champions of their local communities in the local government white paper, there has followed a realisation that councillor engagement in pre-application discussions on major development is necessary to allow councillors to fulfil this role. Many councils had been so concerned about probity issues following Nolan and the introduction of the ethical code, that they had not involved councillors in pre-application discussions for fear of councillors being accused of predetermination when the subsequent application came before them for determination.
- 7.3 In 2006, the Audit Commission followed emerging advice from the Local Government Association, National Planning Forum, and Planning Advisory Service that councillor involvement in pre-application discussions was beneficial provided it was done within carefully established limits to protect the council and its councillors.
- The Audit Commission recommended that councils should develop effective approaches to pre-application discussions which involve councillors, to ensure the issues relating to proposed planning applications are identified and addressed early in the process. This was partly to help councillors lead on community issues and partly to ensure that issues were not identified for the first time when the application was presented to the committee for decision, causing delay and frustration.
- 7.4 The updated 2008 leaflet *Positive engagement – a guide for planning councillors* endorsed by the government and LGA asks councillors to be prepared to engage with officers in appropriate pre-application discussions.
- 7.5 In order to avoid perceptions that councillors might have fettered their discretion in any pre application discussions, **such discussions should take place within clear guidelines. These guidelines need to be developed by an authority and published to assist councillors and officers.** Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken. In addition to any guidelines to deal with specific local circumstances, a protocol should include:

- clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place;
- consistent advice should be given by officers based upon the development plan and material considerations. There should be no significant difference of interpretation of planning policies amongst planning officers. It is officers' role to ensure consistency of advice and officers should therefore be present with councillors in pre application meetings. All officers taking part in such discussions should make clear whether or not they are the decision-maker. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations. They should ask their officers to deal with any necessary negotiations to ensure that the authority's position is co-ordinated;
- a written note should be made of all meetings. An officer would best make the arrangements for such meetings, attend and write

a follow-up letter. A note should also be taken of similar telephone discussions. The note should be placed on the file as a public record to show a transparent approach. Sometimes confidentiality is needed and should be respected. However the need for this can easily be exaggerated and confidentiality of advice by representatives of a public body on a planning matter will rarely be justified even if the applicant's interest is sensitive. If there is a legitimate reason for confidentiality regarding the proposal, a note of the non-confidential issues raised or advice given can still normally be recorded on the file to reassure others not party to the discussion;

- care must be taken to ensure that advice is not partial (nor seen to be), otherwise the subsequent report or recommendation to committee could appear to be advocacy; and
- the decision as to whether to establish a register for everyday contacts between councillors and interested parties will depend on local circumstances. Many councillors will be talking regularly to constituents to gauge their views on matters of local concern, and such a register may be considered, as the Nolan Committee argued, impractical and unnecessary. Councillors will, however, need to register any gifts and hospitality received as a requirement of the code.

- 7.6 Consideration needs to be given to when to involve other consultees and the community in pre-application discussions. Some authorities have been very successful in engaging their councillors and communities by having public planning forums to explore major pre-application proposals with the developer outlining their ideas and invited speakers to represent differing interests and consultees. The advantages of the authority setting up such forums are the transparency of process, and the ability of ward councillors and other councillors to seek information and identify important issues for the proposal to address, without the risk of planning councillors having engaged with developers in such a way as to suggest they have pre-determined themselves. Members should also be aware of the code of conduct which means that they should not use their position to improperly influence decisions. This provision does not only apply to councillors when they are in a committee meeting.
- 7.7 Authorities also have other mechanisms to involve councillors in pre-application discussions including:
- committee information reports by officers of discussions from which councillors can identify items of interest and seek further information and raise issues for consideration;
 - developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be;
 - ward councillor briefing by officers of the content of initial pre application meetings held.
- 7.8 The 2007 CLG report on *Member Involvement in Planning Decisions*, the 2007 London Councils report on *Connecting Councillors with Strategic Planning Applications*, and the 2007 POS Enterprises Development Management practice guidance note on *Councillor involvement in pre-application discussions* provide examples and advice for those interested in developing appropriate protocols for their authority. Full references are given at the end of this document.
- 7.9 Statements of Community Involvement required as part of the LDF need to be reviewed to see whether mechanisms for such dialogue are already in place, or if the statement needs to be updated to reflect the council's approach.

officer reports to committee

- 8.1 The courts and Ombudsman advice have determined officer reports on planning applications must have regard to the following points:
- reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted;
 - relevant information should include a clear exposition of the development plan; site or related history; and any other material considerations;
 - reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur;
 - reports should contain technical appraisals which clearly justify a recommendation;
 - if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

It is particularly important to do so, not only as a matter of good practice, but because failure may constitute maladministration, or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004.

public speaking at planning committees

- 9.1 The principle of whether or not public speaking should be allowed at a planning committee is very much a matter for the local authority concerned. A majority of authorities now provide such an opportunity. The benefits seen by those authorities are that public confidence is generally enhanced and that direct lobbying may as a result be reduced. The disadvantage is that the approach may lengthen meetings and make them marginally more difficult to manage. However, where public speaking is allowed, it is important that clear protocols are established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors arrangements. In addition, in the interests of equity, the time allowed for presentations for and against the development should be identical, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.
- 9.2 Documents not previously submitted should not normally be circulated to the committee as all parties may not have time to react to the submissions, and councillors may not be able to give proper consideration to the matter. Officers may not be able to provide considered advice on any material considerations arising. This should also be told to those who intend to speak.
- The acceptance of circulated material could imply a willingness to take the necessary time to investigate any issues raised and lead to the need to defer the application or risk a complaint about the way the material has been considered. For similar reasons, messages passed to members sitting in planning committees should be avoided. Care needs to be taken to avoid the perception of external influence or bias.

decision contrary to officer recommendation and/or the development plan

- 10.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations indicate otherwise (s38A Planning & Compensation Act 2004).
- 10.2 This gives rise to two main issues. Firstly, all applications which are not in accordance with the development plan must be identified and advertised as such. Secondly, if it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated. The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed. If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.
- 10.3 The Association of Council Secretaries and Solicitors' *Model Planning Code* advises planning committees to take the following steps prior to making a decision contrary to officers' recommendations:
- encouraging the formation of tentative reasons by discussing a predisposition with planning officers beforehand;
 - writing down the reasons as part of the mover's motion;
 - adjourning for a few minutes for those reasons to be discussed;
 - if a very strong objection from officers on validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

10.4 If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Thus, members should be prepared to explain in full their reasons for not agreeing with the officer's recommendation. In so doing, members should observe the 'Wednesbury principle' (the case of *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 K.B. 223) which, put simply, requires all relevant information (ie material considerations) to be taken into account and all irrelevant information (ie non-material matters) to be ignored.

The officer should also be given an opportunity to explain the implications of the contrary decision.

10.5 The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant, or any other material or non-material considerations which might cause local controversy, will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, the provision of a dwelling for an agricultural worker.

committee site visit

- 11.1 Earlier enquiries revealed little consistency amongst councils on the operation of site visits, both in terms of why they are held and how they are conducted. While a variety of approaches can be healthy, the lack of any common approach on when and why to hold a site visit and how to conduct it can leave a council open to the accusation that such visits are arbitrary and unfair or a covert lobbying device. A protocol setting out the arrangements for a council could be used to encourage consistency and transparency of process.
- 11.2 The code applies whenever the councillor is conducting official business, which will include site visits. Councils should set out the criteria for deciding when a site visit is justified and consider the procedures for such visits. In doing so, the following points may be helpful:
- site visits can cause delay and additional costs and should only be used where the expected benefit is substantial; officers will have visited the site and identified material considerations on behalf of the council;
 - they should be carefully organised to ensure that the purpose, format and conduct are clearly established at the outset and subsequently adhered to throughout the visit;
 - many councils allow site visits to be 'triggered' by a request from the ward councillor. It is acknowledged that this may be a proper part of the representative role of the member, and should normally be considered if allowed for in any local planning guidance, although the 'substantial benefit' test should still apply. It is also good practice to keep a record of the reasons why a site visit is called.
- 11.3 A site visit is only likely to be necessary if:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or
 - there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.
- 11.4 Site visits consisting simply of an inspection by a viewing sub-committee, with officer assistance, are in most cases the most fair and equitable approach. An inspection could be unaccompanied (ie without applicant and objectors) or accompanied but run on the strict lines of a planning inspector's site inspection, ie not allowing arguments to be expressed on site.

regular review of decisions

- 12.1 The report of the Audit Commission Building in Quality recommended that councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, strengthening public confidence in the planning system, and can help with reviews of planning policy.
- 12.2 Such reviews are best undertaken at least annually. They should include examples from a broad range of categories such as major and minor development; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gave rise to the need to reconsider any policies or practices.
- 12.3 Scrutiny committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions from the visiting of completed developments. It is therefore important for planning committee members to be fully engaged in such reviews.

complaints and record keeping

- 13.1 Whatever procedures a council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- 13.2 A logical consequence of adopting good planning practice guidance is that a council should also have in place a robust complaints system. Such a system may well apply to all council activities, but a council should consider specifically how planning-related complaints will be handled, in relation to the code of good practice.
- 13.3 So that complaints may be fully investigated and as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could cause a complaint or undermine a council's case. The guiding rule is that every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. Particular care needs to be taken with applications determined under officers' delegated powers. Such decisions should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.

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Local Government Association

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