

# ROTHERHAM METROPOLITAN BOROUGH COUNCIL

## PLANNING BOARD

Thursday, 30 June 2011

Start Time 10.15 a.m.

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

### AGENDA

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Declarations of Interest (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 9th June, 2011 (herewith) (Pages 3 - 7)
5. Deferments/Site Visits (information attached) (Pages 8 - 9)
6. Development Proposals (report herewith) (Pages 10 - 118)
7. Report of the Director of Planning and Regeneration Service (herewith) (Pages 119 - 130)
8. Relaxation of Planning Rules for Change of Use from Commercial to Residential - Government Consultation (report herewith) (Pages 131 - 142)
9. Updates

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

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

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

**1. Personal**

**You may stay in the room.**

**2. Personal/Prejudicial**

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

**3. Personal/Prejudicial**

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

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

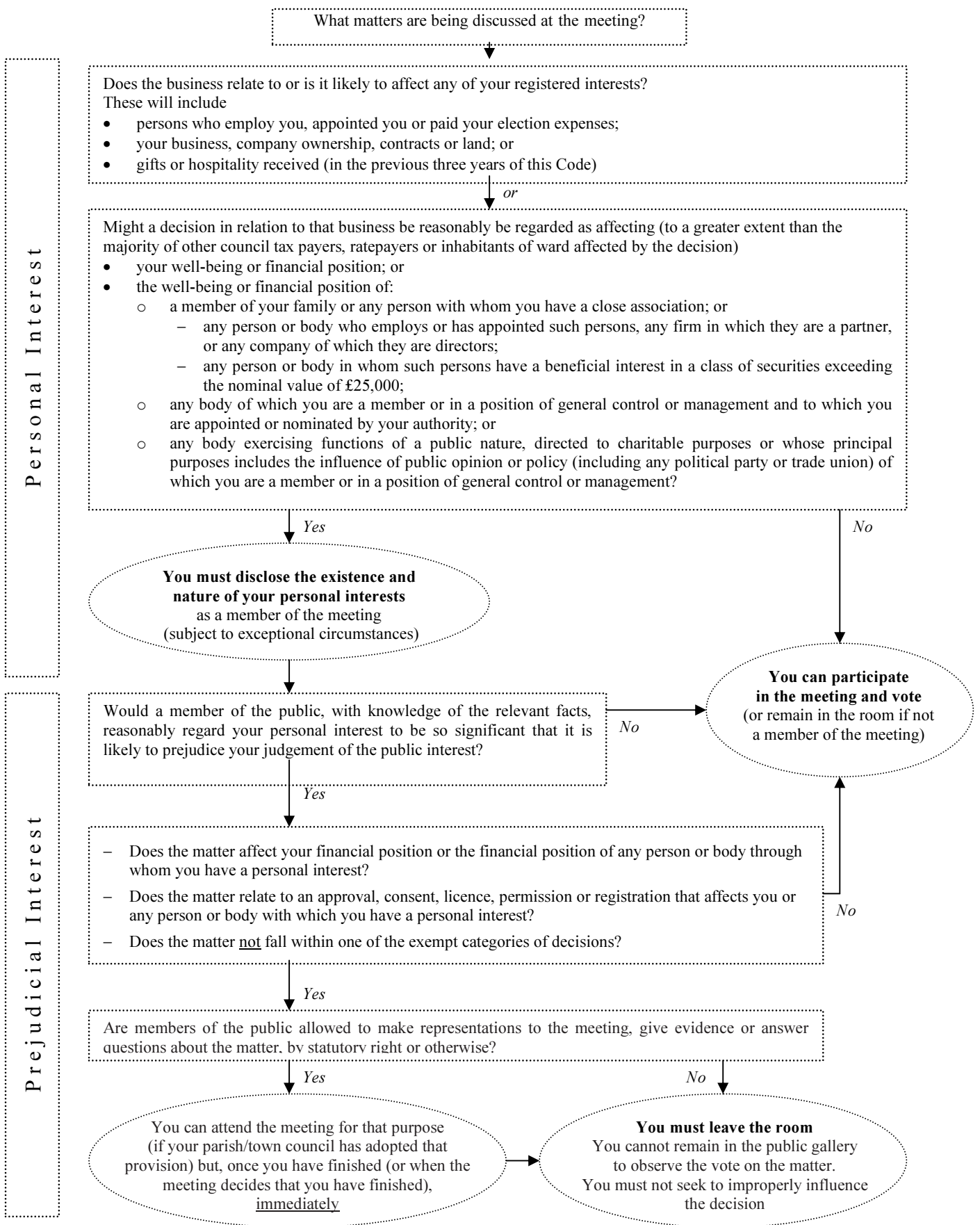
*(Please continue overleaf if necessary)*

N.B. It is up to a Member to determine whether to make a Declaration. However, if you should require any assistance, please consult the Legal Representative/Committee Clerk prior to the meeting.

Signed:- .....

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

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**



**PLANNING BOARD  
9th June, 2011**

Present:- Councillor Pickering (in the Chair); Councillors Atkin, Dodson, Pitchley, Sims, Tweed and Walker.

Apologies for absence were received from Councillors Kaye and Whysall.

**T1. DECLARATIONS OF INTEREST**

There were no Declarations of Interest to report.

**T2. MINUTES OF THE MEETING OF THE PLANNING REGULATORY BOARD HELD ON 19TH MAY, 2011**

Resolved:- That the minutes of the meeting of the Planning Regulatory Board held on 19<sup>th</sup> May, 2011, be approved as a correct record for signature by the Chairman.

**T3. DEFERMENTS/SITE VISITS**

There were no site visits or deferments recommended.

**T4. VISIT OF INSPECTION - ERECTION OF A PAIR OF TWO STOREY SEMI-DETACHED HOUSES WITH ROOMS IN THE ROOF SPACE AND 3 NO TWO STOREY DETACHED DWELLINGS WITH ROOMS IN THE ROOF SPACE AT LAND TO THE REAR OF 17 FRONT STREET, TREETON FOR R. T. DEVELOPMENTS (RB2011/0111)**

Before the formal meeting of the Planning Board, Members of the Board made a visit of inspection to the above site (Ward Representative Councillor Swift was also in attendance).

In accordance with the right to speak procedure, Councillor Swift (Objector) attended the meeting and spoke about this application. An additional letter of representation was also read out at the meeting.

Resolved:- That planning permission be granted for the reasons adopted by Members at the meeting and subject to the following conditions:-

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. 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 Plan Nos. 904-17B/18B/19B/20B/21/22/23B/24B/25B and 26B.

3. 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.

4. The detailed plans to be submitted in accordance with this 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 retention and/or replacement of existing trees, shrubs and hedgerows along the northern site boundary with the existing properties at nos. 15 – 17 Rodwell Close.
- 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.

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

6. 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.

7. The area shaded blue on the attached plan shall be retained free at all times for vehicular turning purposes.

8. Before the development is commenced on site, a structural survey of the stone wall along the northern and eastern site boundaries shall be submitted to the Local Planning Authority, and shall include details of its construction, condition and any implications in relation to the roots of the Oak Tree in the north eastern corner of the site. Any measures to re-build/strengthen the wall shall ensure that no damage takes place to the tree roots.

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

10. 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.

Reasons:-

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

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

3. 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'.
4. To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
5. To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
6. To ensure 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'.
7. To enable a vehicle to enter and leave the highway in a forward gear in the interests of road safety.
8. In the interests of the visual amenities of the area and future prospects of the trees on site in accordance with Policy ENV 3.4 Trees, Woodlands and Hedgerows of the Unitary Development Plan.
9. To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.
10. 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'.

## **T5. DEVELOPMENT PROPOSALS**

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

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

- Erection of kennels and conversion of outbuildings to office and stores at Broomhouse Farm, 52 Dowcarr Lane, Woodall for Mrs. L. Morley (RB2011/0337)

Mrs. L. Morley (Applicant)

Ms. P. Macdonald (Objector)

(2) That applications RB2011/0183 and RB2011/0378 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the report.

(3) That application RB2011/0337 be refused for the reasons listed in the report.

**T6. UPDATES**

There were no updates to report.

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**  
**PLANNING REGULATORY BOARD**

**DEFERMENTS**

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

## SITE VISITS

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

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 30<sup>TH</sup> JUNE 2011**

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><b>RB2011/0289</b>  Demolition of rectory and erection of 5 No. two storey dwelling houses and associated garages (renewal of permission RB2008/0491) at The Rectory, Union Street, Harthill for Sheffield Diocesan Board of Finance.</p>	<p>Page 12</p>
<p><b>RB2011/0310</b>  Conservation Area Consent for demolition of rectory (renewal of permission RB2008/0492) at The Rectory, Union Street, Harthill for Sheffield Diocesan Board of Finance.</p>	<p>Page 27</p>
<p><b>RB2011/0508</b>  Retrospective application for variation to Condition 19 (details of entrance feature) imposed by application RB2010/1122 to provide alternative access at land off Rother Crescent, Treeeton for Jones Homes (Northern).</p>	<p>Page 33</p>
<p><b>RB2011/0555</b>  Permanent retention of spoil mound (Application under Regulation 3, 1992) at Aston Comprehensive School, Aughton Road, Swallownest for Rotherham MBC.</p>	<p>Page 39</p>
<p><b>RB2011/0556</b>  Application for variation to condition 1 (duration of consent) to allow sports hall &amp; classrooms to remain on site for a further 5 years imposed by RB2006/2338 (Application Under Regulation 3, 1992) at Aston Comprehensive School, Aughton Road, Swallownest for Rotherham MBC.</p>	<p>Page 45</p>
<p><b>RB2011/0595</b>  Restoration and change of use from residential to museum/education (use class D1) including partial demolition of main building, ground &amp; first floor extensions, demolition of detached store, alterations to pedestrian access and landscaping of the site (Application Under Regulation 3, 1992) at Boston Castle, Boston Castle Grove, Moorgate for Rotherham MBC.</p>	<p>Page 54</p>

<p><b>RB2011/0617</b>  <b>Listed Building Consent for partial demolition of main building, ground &amp; first floor extensions and demolition of detached store (Application Under Regulation 3, 1992) at Boston Castle, Boston Castle Grove, Moorgate for Rotherham MBC.</b></p>	<p><b>Page 79</b></p>
<p><b>RB2011/0630</b>  <b>Continuation of erection of 31 dwellings comprising 2 detached houses, 16 semi-detached houses, and 13 town houses with associated garaging (amendments to house types on plots 6-25 and 32-42 previously approved under RB1999/0264) with variation to Condition 16 (approved plans) imposed by RB2010/1152 at land off Mansfield Road/Church Lane, Mansfield Road, Aston for W. Redmile &amp; Sons Ltd.</b></p>	<p><b>Page 89</b></p>
<p><b>RB2011/0651</b>  <b>Outline application for agricultural workers dwelling in connection with proposed free range poultry enterprise to include means of access, layout and scale at Manor Farm off Low Lane, Carr for Mrs. L. Micklethwaite.</b></p>	<p><b>Page 100</b></p>
<p><b>RB2011/0668</b>  <b>Two storey side extension and front porch at 22 Tortmayns, Todwick for Mr. C. Eccles.</b></p>	<p><b>Page 112</b></p>

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 30<sup>TH</sup> JUNE 2011**

**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.**

**RB2011/0289**

**Proposed demolition of rectory and erection of 5 No two storey dwelling houses and associated garages (Renewal of permission RB2008/0492) at The Rectory, Union Street, Harthill.**

**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

Unitary Development Plan:

HG 4.3 Windfall Sites, states that windfall sites will be determined having regard for their location and compatibility with other policies.

Policy HG4.4 Back Land and Tandem Development:

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

HG5 The Residential Environment, states that the Council will encourage the use of best practice in housing layout and design.

ENV1.4: Land Adjacent to the Green Belt, states that development adjacent the Green Belt should be sympathetic to its environmental quality and visual amenity.

ENV 2 Conserving the Environment, states that the effect of development on wild life, historic and geological resources of the Borough must be fully taken into consideration.

ENV2.11: Development in Conservation Areas, states that development must have regard for the historic and visual amenities of Conservation Areas.

ENV3.1 Development and the Environment, states that development will be required to have a positive effect on the environment by achieving an appropriate standard of design.

ENV3.4 Trees, Woodlands and Hedgerows, seeks to retain and enhance tree and hedgerow cover in the Borough.

Policy T6.1 Car Parking Standards states that provision should be made in new developments for appropriate levels of car parking off highway.

b) Other relevant material planning considerations

Supplementary Planning Guidance:

Supplementary Planning Guidance - Housing Guidance 2: Backland and tandem development states that the development of residential back land presents special problems in terms of residential amenity and convenience of access.

Central Government Guidance:

PPS 1 Delivering Sustainable Development emphasises the need for sustainable development.

PPS 3 Housing strongly advocates economic use of land, and good design, which has regard for the character of the area. In June 2010 PPS3 was reissued to change the definition of previously developed land (known as brownfield land) to exclude the private residential gardens in built up areas. Such gardens are therefore now classed as greenfield. PPS3 sets a national target of at least 60% of new dwellings to be built on brownfield land.

PPS 5 Planning and the historic environment emphasis the need to consider the value and setting of historic assets.

PPS 9 Biodiversity and Geological Conservation seeks to conserve, enhance and restore the diversity of England's wildlife and geology.

PPG 13 Transport further emphasis the need for sustainable development patterns.

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions.

2. For the following reasons:

Planning permission has previously been granted for the proposed development (under reference RB2008/0492 – June 2008) and the current application relates to an extension of time for implementation of that permission.

Development Plan policies and other material planning considerations which may have changed significantly since the original grant of permission have been considered. The Rotherham Unitary Development Plan (UDP) was adopted in June 1999, and is currently under review, and will be replaced in due course by the Local Development Framework. Thus far, the LDF does not carry any significant weight and the relevant local plan for consideration of the application remains the adopted UDP.

There are no development plan policies or other material considerations which have changed significantly since the grant of permission in June 2008.

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

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

02

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

(Drawing numbers S118.02.03 Rev A, 04 Rev A, 05 Rev A, 06, 07, and 08 Rev A.)(received 28<sup>th</sup> February 2011).

To define the permission and for the avoidance of doubt.

03

No development shall take place within the area indicated within the red boundary on the plan attached to this permission until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

To ensure that any archaeological remains are recorded or preserved in accordance with UDP policies ENV2 'Conserving the Environment', ENV 2.2 'Interest Outside Statutorily Protected Sites' and ENV2.3 'Maintaining the Character and Quality of the Environment'.

04

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.

To ensure that the development can be properly drained in accordance with UDP policies ENV3.2 'Minimising the Impact of Development' and ENV3.7 'Control of Pollution'.05

05

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

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

06

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.

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'.

07

The vehicular turning head in front of Plot 5 shall be extended by 2m to provide an appropriate turning head for a fire appliance within the site.

To enable a vehicle to enter and leave the highway in a forward gear in the interests of road safety.

08

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

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'.

09

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

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
- The extent of any changes to existing ground levels, where these are proposed.
- Any constraints in the form of existing or proposed site services, or visibility requirements.

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

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

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'.

10

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

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

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.

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'.

12.

The boundary treatment to the western site boundary shall consist of a 1.5m post and rail fence and a mixed species hedge, the details of which shall be provided as part of the landscaping scheme and shall be implemented before the development is first brought into use, and shall be retained in the future.

In the interests of the character of the Conservation Area in accordance with Policy ENV 2.11 Development in Conservation Areas.

13

The development hereby approved shall be constructed from coursed natural stone and red clay pantiles the details of which shall be submitted to and approved by the Local Planning Authority.

In the interests of the character of the Conservation Area in accordance with Policy ENV 2.11 Development in Conservation Areas.

14

Before the development is commenced on site details of the special design and construction methods for development within the root spread of the trees and hedges to be retained, in accordance with "BS 5837:2005 Guide for Trees in Relation to Construction-Recommendations," shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented during the construction period.

To ensure the future good prospects of the trees and hedgerows to be retained, in the interests of visual amenity and the character of the Conservation Area, in accordance with Policy ENV 2.11 Development in Conservation Areas and ENV 3.4 Trees Woodlands and Hedgerows of the Unitary Development Plan.

15

Notwithstanding the details shown on the submitted plan, the proposed development shall not be commenced until the proposed access to Union Street (to include a dropped crossing) and the details of the extension to the speed table in Union Street fronting the access have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the development is first brought into use.

In the interests of the safety of highway users.

16

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.

In order to promote sustainable transport choices.

17

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

No details having been submitted they are reserved for approval.

18

Notwithstanding the submitted plans, the boundary wall to the north of the access shall

be retained and reduced in height by two courses and the coping stones replaced on top. The boundary wall to the south of the access shall be re-built on the approved sightline, using the existing materials, or reclaimed stone to match the existing wall, and the new walls either side of the access shall be constructed in reclaimed stone to match the existing wall the details of which shall be agreed in writing by the Local Planning Authority.

In the interest of the character and appearance of the Conservation area in accordance with Policy ENV2.11 Development in Conservation Areas.

19.

Before the development is first brought into use, 5 bat boxes, the details of which shall be submitted to and approved by the Local Planning Authority, shall be incorporated in the development.

In the interest of the local flora and fauna in accordance with Policy ENV 2 Conserving the Environment and advice in PPS 9 Biodiversity and Geological Conservation.

20.

In the event of no material operation having been commenced on site before May 2012, the protected species survey shall be updated and submitted to the Local Planning Authority for approval, and no development shall commence until such approval.

In the interest of the local flora and fauna in accordance with Policy ENV 2 Conserving the Environment and advice in PPS 9 Biodiversity and Geological Conservation.

**Informatives:**

**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.

## **INF 25 Protected species**

### **Wildlife Legislation**

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

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 of Habitats and Species Regulations 2010 (Habitat Regulations), the Countryside and Rights of Way (CRoW) Act 2000 (in England and Wales) and the Natural Environment and Rural Communities (NERC) Act 2006 (in England and Wales).

All species of bats and their roosts are protected by UK and European legislation. Roosts are equally protected whether bats are present or not.

The Great Crested Newt is protected by UK and European legislation. The legislation covers all life stages; eggs, tadpoles and adult newts are all equally covered.

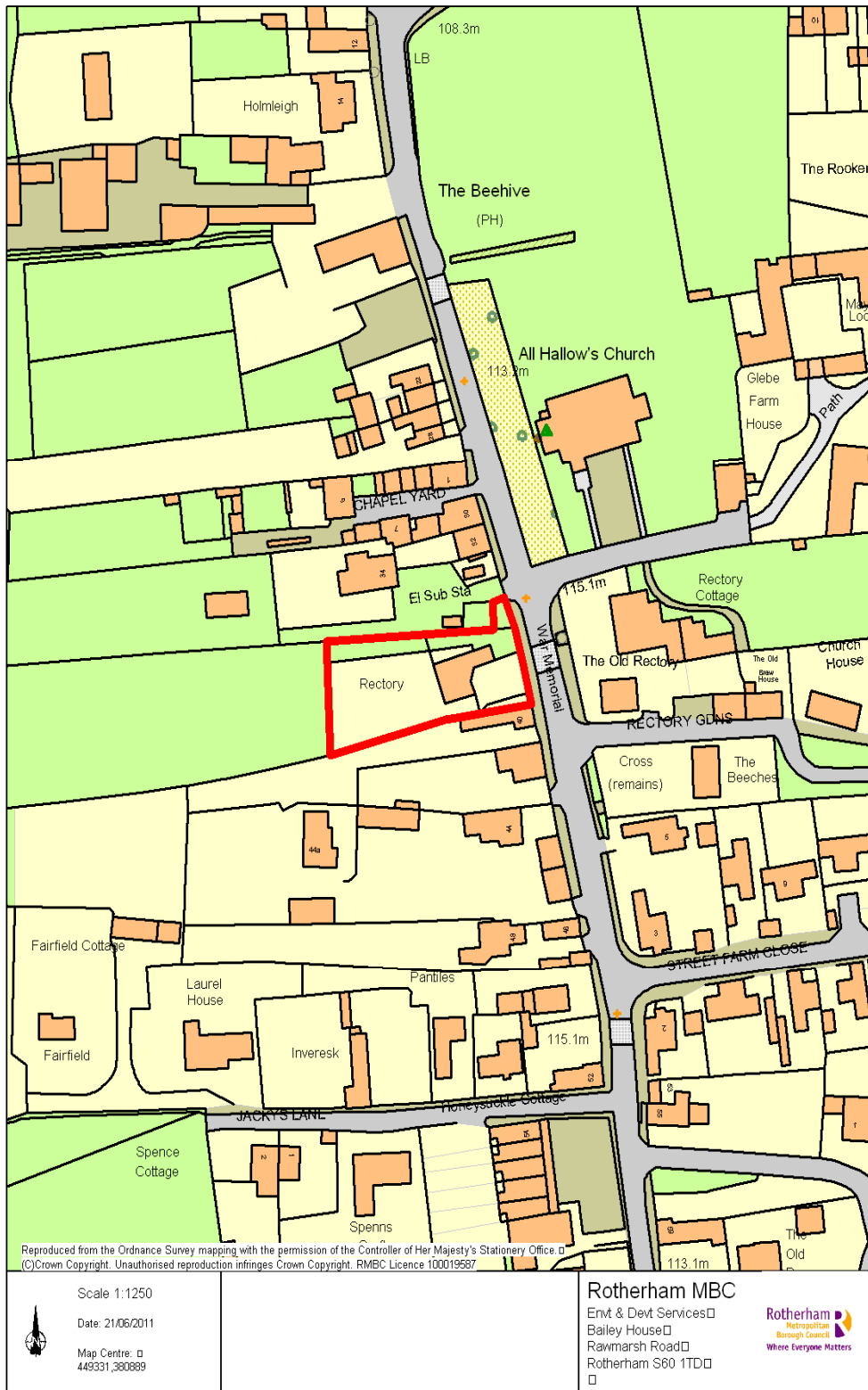
Otters and their holts, including hovers and couches, which are otter resting places above ground, are protected by UK and European legislation.

Water Vole are protected against killing, injuring or taking; possession or control; damage or destruction of its places of shelter, or disturbance while such animals are occupying places of shelter.

All birds, their nests and eggs are protected by UK law and it is an offence, with certain exceptions, to kill, injure or take any wild bird, to take, damage or destroy the nest of any wild bird while it is in use or being built, and to take or destroy the egg of any wild bird. Certain species receive increased protection making it an offence to 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 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.

The information provided is a summary only; for definitive information, primary sources should be consulted.



## **Background**

Measures to allow applicants to submit applications to extend the time limits for implementing planning permissions have been introduced to make it easier for developers to keep planning permissions alive for longer during the current economic downturn, so that they can be more quickly implemented when economic conditions improve. It is a temporary measure and only applies to applications granted permission before the 1<sup>st</sup> October 2009.

Part of this application site overlaps part of a site which was refused planning permission for four detached houses in 2001 (RB2001/0138) for the following reasons:

1. It is considered that the proposal constitutes unacceptable piecemeal development, and would set an undesirable precedent, which would make future similar proposals difficult to oppose.
2. The proposed development would have a density of approximately 10 dwellings per hectare, and would consequently be in conflict with policy HG4, Variety and Location of New Housing, of the adopted Unitary Development Plan, and PPG3 Housing.
3. It is considered that the development will have an adverse effect on the character of the Green Belt, by way of the size and siting of the dwellings, and will thereby be in conflict with Policy ENV1.4 Land Adjacent the Green Belt, of the adopted Unitary Development Plan.
4. No details of the houses to be constructed on plots 1, 2, and 3 have been submitted, and the proposal is therefore, in conflict with Policy ENV2.11 Development in Conservation Areas, of the adopted Unitary Development Plan.
5. It is considered that the development will have an adverse effect on the historic character of the area, by way of the scale and siting of the dwellings, and will thereby be in conflict with Policy ENV2.11 of the adopted Unitary Development Plan.

A proposal for the erection of four houses on the same site as application RB2001/0138 was withdrawn in November 2007 (RB2006/1041).

Planning permission for demolition of The Rectory and erection of 5 No two storey dwelling houses and associated garages was granted conditionally in 2008 (RB2008/0492). The current application is for renewal of that permission.

Conservation Area Consent was also granted conditionally in 2008, for demolition of the Rectory (RB2008/491). A further application for renewal of that application is also on this agenda (RB2011/0310).

## **Site Description & Location**

The site is an irregular shaped piece of land including the existing Rectory, the main bulk of which stands approximately 15m back from the site frontage. To the rear of that building is a garden area with farmland beyond, some of which is within the residential

allocation, with Green Belt beyond. To the north and south of the site are existing residential properties and garden areas.

### **Proposal**

The application is for the renewal of the previous permission granted in 2008 (RB2008/0492) and relates to the demolition of the existing Rectory, which is currently vacant, and the erection of five dwellings. This would include one 4 bedroom detached house, in a similar position to the existing rectory, with its main elevation fronting Union Street, an access road to run adjacent the frontage plot to serve a terrace of three houses, and garages, at the rear fronting onto the access road. Finally there is a detached house at the rear, which would be used as the new Rectory.

The front boundary wall is to be demolished and set back to widen the footpath.

The application was accompanied by a Design and Access statement which indicates that the proposal reflects the local distinctiveness and enhances the character through design and the layout of the site. It also indicates that acceptable levels of amenity would be achieved by the spacing and location of buildings and that the site is accessible by public transport and existing footpath links.

The application is also accompanied by a Protected Species report which concludes that there are no protected species on the site.

The applicant's agents have submitted a letter in response to the objections raised by residents relating to the development. They have indicated that they consider the proposals will be in keeping with the character of the area in terms of the scale massing and design of the buildings and that the proposals will enhance the character of the Conservation Area. They also point out that the application is for extension of time on an extant planning permission.

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

The site is allocated for residential purposes, and is within the Harthill Conservation Area, on the adopted Unitary Development Plan. Relevant Policies are:

HG 4.3 Windfall Sites states that the Council will determine proposals for housing development not identified in Policies HG 4.1 and HG 4.2 in the light of their:

1. Location within the built up area and their compatibility with adjoining uses, and
2. Compatibility with other relevant policies and guidance.

Policy HG4.4 Back Land and Tandem Development:

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

HG5 The Residential Environment, states that the Council will encourage the use of best practice in housing layout and design.

ENV1.4: Land Adjacent to the Green Belt, states that in such areas development should be sympathetic to the visual amenity and environmental quality of the Green Belt.

ENV 2 Conserving the Environment, states that the effect of development on wild life, historic and geological resources of the Borough must be fully taken into consideration.

ENV2.11: Development in Conservation Areas, states that development will not be allowed which adversely affects the historic character or visual amenities of such areas, that consent will not be granted for demolition of buildings which make a positive contribution to the character of such areas, and that permission will not be granted on the basis of outline applications unless the effect of the development can be properly assessed on that basis.

Policy ENV3.1 Development and the Environment:

“Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property. Developers will be required to supply details of design and landscaping for approval by the Council.”

Policy ENV3.4 Trees, Woodlands and Hedgerows:

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

Policy T6.1 Car Parking Standards states that provision should be made in new developments for appropriate levels of car parking off highway.

Other Material Considerations

Supplementary Planning Guidance – Housing Guidance 2: Backland and tandem development states amongst other things:

1. It has been recognised over many years that the development of residential back land presents special problems in terms of residential amenity and convenience of access. Current Central Government policy is set out in PPG3 (Housing) which says:

“Homes with large back gardens are a common feature in many urban, suburban and village areas. Sometimes it may be acceptable to develop back gardens for new housing which is in keeping with the character and quality of the local environment. Where development of back garden or back land is allowed, it will require careful planning. For example, there must be proper means of access, which is convenient and safe for both drivers and pedestrians, and adequate provision for car parking. There must be adequate space between old and new buildings to avoid spoiling the amenity of neighbouring houses, for example, by over-shadowing. Sensitive design and good landscaping are particularly important if new buildings are to be fitted successfully into small vacant sites in established residential areas. ‘Tandem’ development, consisting of one house immediately behind another and sharing the same access, is generally unsatisfactory because of the difficulties of access to the house at the back and the disturbance and lack of privacy suffered by the house in front.”

2. This national policy has been the guiding principle for Council policy over the years. The Council believes strongly that the development of dwellings in tandem, is generally unsatisfactory, and that such development should be resisted other than in exceptional circumstances. It is the purpose of this guidance to indicate those circumstances.

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

#### National Planning Guidance:

PPS1 Delivering Sustainable Development states that 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.

PPS 3 Housing reinforces the message from PPS 1. It states that development should create or enhance a distinctive character that relates well to and complements neighbouring buildings and the local area in terms of scale, density, layout and access. It also emphasizes the need for the efficient use of land and the re-use of vacant or derelict land and buildings.

The Government has changed the definition of previously developed land (known as brownfield land) in PPS3 to exclude private residential gardens in built up areas. Such gardens are therefore now classed as greenfield. PPS3 sets a national target of at least 60% of new dwellings to be built on brownfield land. There is no specific target for the Rotherham Borough, there will be no Borough target until it is set in the LDF, but Rotherham has exceeded the target for a number of years.

While the change in the guidance has changed the status of private residential gardens, it has not introduced a presumption that that development of gardens is inherently unacceptable. The brownfield/greenfield status of a site is a material consideration, but it is one among many, and the need to meet the overall housing requirement is an important consideration in all cases. At this time both greenfield and brownfield land will be required to meet future housing needs.

#### PPS 5 Planning for the Historic Environment:

Policy HE10 states that when considering applications which affect the setting of a heritage asset, Local Planning Authorities should treat favourably applications that preserve those elements of the setting that make positive contribution to or better reveal the significance of the asset, and identify opportunities for changes in the setting, or enhance or better reveal the significance of a heritage asset.

PPS 9 Biodiversity and Geological Conservation seeks to conserve, enhance and restore the diversity of England's wildlife and geology.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes, a reduction in the need to travel and the

length and frequency of car journey, and reduced car parking provision with maximum recommended levels of provision.

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions.

### **Publicity**

The application was advertised on site and in the press and neighbouring residents notified. Seven letters of objection have been received, all objecting to the proposals. Points raised are:

- (i) Existing empty houses in the village.
- (ii) Change in housing need requirements set by government.
- (iii) Adverse effect on character of Conservation Area.
- (iv) Greenfield site.
- (v) Bins on collection day will block footpath.
- (vi) Narrow highway footpath.
- (vii) Narrow highway.
- (viii) Demolition of wall.
- (ix) Out of scale with other properties in vicinity.
- (x) Request that Members visit the site.
- (xi) Dangerous precedent.
- (xii) Inadequate sight lines.
- (xiii) Traffic generation and highway danger.
- (xiv) Inadequate drains.

A letter has been received from Kevin Barron MP, requesting that he be kept informed in respect of the proposal.

The applicant's agent has requested the Right to Speak at the Meeting.

### **Consultations**

Transportation Unit: No objections subject to relevant conditions.

Ecology Officer: No objections subject to appropriate conditions and informatives.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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 Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions. It states that in the current circumstances Local Planning Authorities should take a

positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.

The development proposed in an application for extension will by definition have been judged to be acceptable in principle when originally granted. The Government guidance adds that in making their decision the Local Planning Authority “should focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.”

The proposal is for extension of time for planning permission granted in June 2008 for five dwellings, arranged along a small cul-de-sac, with access to Union Street. The main issues with regard to this application were fully considered at that time and are:

- (i) The principle of the development.
- (ii) The scale layout and appearance of the development and the effect on the historic and visual character of the Conservation Area.
- (iii) The density of the development.
- (iv) The effect on the character of the adjacent Green Belt.
- (v) Whether it is piecemeal development.
- (vi) Highway safety.
- (vii) Archaeology.
- (viii) Other issues raised by objectors.

There are no development plan policies or other material considerations which have changed significantly since the grant of permission in June 2008.

With regard to policy and advice, PPG 15 The Historic Environment and PPG 16 Archaeology and Planning have been replaced by PPS 5 Planning for the Historic Environment. The new advice sustains the approach of the former PPGs regarding the importance of archaeological and historic heritage, and emphasises the need to evaluate and preserve assets and their setting. This approach was used at the time of the previous application and South Yorkshire Archaeology Service’s advice incorporated in the conditions attached to the planning permission.

In June 2010 PPS3 was reissued to change the definition of domestic garden land from Brownfield to Greenfield land and removed the reference to achieving a minimum density of 35 dwellings per hectare. Such gardens are therefore now classed as Greenfield. PPS3 sets a national target of at least 60% of new dwellings to be built on brownfield land. There is no specific target for the Rotherham Borough, there will be no Borough target until it is set in the LDF, but Rotherham has exceeded the national target for a number of years.

With regard to issues raised by residents, the only new issue is that of the reduced housing allocations now required by Central Government. Notwithstanding this, the site is still allocated for residential purposes on the adopted Unitary Development Plan and the proposals would enhance the character of the Conservation Area whilst providing quality housing in a sustainable location.

## **Conclusion**

Planning permission has previously been granted for the proposed development and the current application relates to an extension of time for implementation of that

permission. Development Plan policies and other material planning considerations which may have changed significantly since the original grant of permission should be considered.

There are no development plan policies or other material considerations which have changed significantly since the grant of permission in June 2008. As a consequence it is recommended that conditional planning permission be granted.

**RB2011/0310**

**Conservation Area Consent for demolition of the Rectory (renewal of RB2008/0491) at the Rectory, Union Street, Harthill.**

**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

ENV2.11: Development in Conservation Areas, states that development will not be allowed which adversely affects the historic character or visual amenities of such areas, that consent will not be granted for demolition of buildings which make a positive contribution to the character of such areas, and that demolition will not be granted where the building makes a positive contribution to them unless every alternative course of action has been satisfactorily discounted and if for purposes of redevelopment, only when the development has been granted planning permission and is subject to a legally agreed commitment to its commencement and timing.

- b) Other relevant material planning considerations

PPS 5 Planning and the historic environment emphasises the need to consider the value and settings of historic assets.

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions. It notes that applicants are able to seek an extension to the time limits for implementation of conservation area consents, but only where these are associated with an application for extension of a planning permission.

2. For the following reasons:

Conservation Area consent has previously been granted for the proposed development (under reference RB2008/0491) and the current application relates to an extension of time for implementation of that consent.

Development Plan policies and other material planning considerations which may have changed significantly since the original grant of consent have been considered. The Rotherham Unitary Development Plan (UDP) was adopted in June 1999, and is currently under review, and will be replaced in due course by the Local Development Framework. Thus far, the LDF does not carry any significant weight and the relevant local plan for consideration of the application remains the adopted UDP.

There are no significant Policies which have changed since the original granting of Conservation Area consent and there are no material considerations to indicate that consent should not be granted.

The demolition of the existing building known as the Rectory, and wall fronting the site, will have no adverse effect on the character of the Conservation Area and that by way of the appearance and layout of the replacement development, and amendments to the wall fronting the site, the proposals will enhance the character of the Conservation Area, and will be in accordance with the above referred to Policies and advice.

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

The demolition of the building and wall shall not take place before a contract for carrying out works on the redevelopment of the site, as approved by planning permission RB2011/0289, has been made and the Local Planning Authority has been informed in writing.

To preserve the character of the Harthill Conservation Area, in accordance with Policy ENV 2.11 Development in Conservation Areas of the Unitary Development Plan.



## **Background**

Measures to allow applicants to submit applications to extend the time limits for implementing planning permissions (and related Conservation Area consents) have been introduced to make it easier for developers to keep planning permissions alive for longer during the current economic downturn, so that they can be more quickly implemented when economic conditions improve. It is a temporary measure and only applies to applications granted permission before the 1<sup>st</sup> October 2009.

A proposal for the erection of four houses on the same site as application RB2001/138 was withdrawn in November 2007 (RB2006/1041).

Planning permission for demolition of the Rectory and erection of 5 No two storey dwelling houses and associated garages was granted conditionally in 2008 (RB2008/0492). That application is the subject of an application for extension of time which is also on this agenda (RB2011/0289).

Conservation Area Consent was granted conditionally in 2008 for demolition of the Rectory (RB2008/491). The current application is for an extension of time for that consent.

## **Site description**

The site is an irregular shaped piece of land including the existing Rectory, the main bulk of which stands approximately 15m back from the site frontage. To the rear of that building is a garden area with farmland beyond, some of which is within the residential allocation with Green Belt beyond.

## **Proposals**

The application is for Conservation Area consent for the demolition of the existing former Rectory and boundary walls fronting the site.

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

The site is allocated for residential purposes, and is within the Harthill Conservation Area, on the adopted Unitary Development Plan. Relevant policies are:

ENV2.11: Development in Conservation Areas, states that development will not be allowed which adversely affects the historic character or visual amenities of such areas, that consent will not be granted for demolition of buildings which make a positive contribution to the character of such areas, and that demolition will not be granted where the building makes a positive contribution to them unless every alternative course of action has been satisfactorily discounted and if for purposes of redevelopment, only when the development has been granted planning permission and is subject to a legally agreed commitment to its commencement and timing.

## **Other Material Considerations**

PPS 5 Planning for the Historic Environment: Amongst other things states that Local Planning Authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions. It notes that applicants are able to seek an extension to the time limits for implementation of conservation area consents, but only where these are associated with an application for extension of a planning permission.

### **Publicity**

Both this and the accompanying application for the erection of residential development were advertised on site and in the local press as affecting the character of the Conservation Area, and adjoining residents were notified by letter. One letter of representation has been received objecting to the proposals on the basis of the adverse effect on the character of the Conservation Area due to the demolition of the Rectory and wall.

The applicant's agents have requested that they be allowed to speak at the meeting.

### **Consultations**

There are no relevant consultation replies in respect of the current renewal application.

### **Appraisal**

The Government's guidelines "Greater Flexibility for Planning Permissions" provides guidance on applications to extend time limits for implementing planning permissions. It notes that applicants are able to seek an extension to the time limits for implementation of conservation area consents, but only where these are associated with an application for extension of a planning permission. In this instance there is such a related application, also included on this agenda.

"Greater Flexibility for Planning Permissions" states that in the current circumstances Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.

The development proposed in an application for extension will by definition have been judged to be acceptable in principle when originally granted. The Government guidance adds that in making their decision the Local Planning Authority "should focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission."

The proposal is for the extension of time for demolition of the existing rectory and front boundary wall in the Harthill Conservation Area granted consent in June 2008. The main issues with regard to this application were considered fully at that time and are:

- (ix) The effect on the historic and visual character of the Conservation Area.
- (x) Representations.

With regard to policy and advice, PPG 15 Planning and the Historic Environment and PPG 16 Archaeology and Planning have been replaced by PPS 5 Planning for the Historic Environment. The new advice sustains the approach of the former PPGs

regarding the importance of archaeological and historic heritage, and emphasises the need to evaluate and preserve assets and their settings. This approach was used at the time of the previous application and South Yorkshire Archaeology Service's advice incorporated in the conditions attached to the planning permission.

There are no new issues raised by residents, and it is considered that the circumstances prevailing at the time of the previous consent for the demolition of the Rectory and boundary walls have not changed in the intervening period.

### **Conclusion**

Conservation Area consent has previously been granted for the proposed development (under reference RB2008/0491) and the current application relates to an extension of time for implementation of that consent.

Development Plan policies and other material planning considerations which may have changed significantly since the original grant of consent have been considered. The Rotherham Unitary Development Plan (UDP) was adopted in June 1999, and is currently under review, and will be replaced in due course by the Local Development Framework. Thus far, the LDF does not carry any significant weight and the relevant local plan for consideration of the application remains the adopted UDP.

There are no significant Policies which have changed since the original granting of Conservation Area consent and there are no material considerations to indicate that consent should not be granted.

The demolition of the existing building known as the Rectory, and wall fronting the site, will have no adverse effect on the character of the Conservation Area and that by way of the appearance and layout of the replacement development, and amendments to the wall fronting the site, the proposals will enhance the character of the Conservation Area, and will be in accordance with the above referred to Policies and advice.

**RB2011/0508**

**Retrospective application for the variation to condition 19 (details of entrance feature) imposed by application RB2010/1122 to provide alternative access at land off Rother Crescent Treeton for Jones Homes (Northern) 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

Unitary Development Plan.

ENV3.1 Development and the Environment states that development should have a positive effect on the environment.

Policy T7 Public Rights of Way:

“The Council will safeguard, maintain, promote and, where appropriate, create footpaths, cycleways and bridleways as a means of serving local communities, linking areas of Urban Greenspace and improving access to the countryside for recreation purposes. Proposals for the diversion or rationalisation of routes will only be supported if they are in the public interest and in keeping with local land management and planning requirements.”

Policy T8 Access:

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

- b) Other relevant material planning considerations

PPS1 Delivering Sustainable Development states that 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.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes.

2. For the following reasons:

The proposed changes to the entrance feature will assist pedestrian access to the existing footpath system in the vicinity as well as providing separate access for horse riders, whilst excluding all unauthorised traffic. Additionally, the feature forms an

attractive visual and informative statement, which names the site and adds a sense of place to the development. It is therefore considered that the proposals will have a positive effect on the environment and will be in accordance with policies ENV 3.1 Development and the Environment, T7 Public Rights of Way and T8 Access of the Unitary Development Plan.

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 entrance feature details hereby granted shall be developed 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.

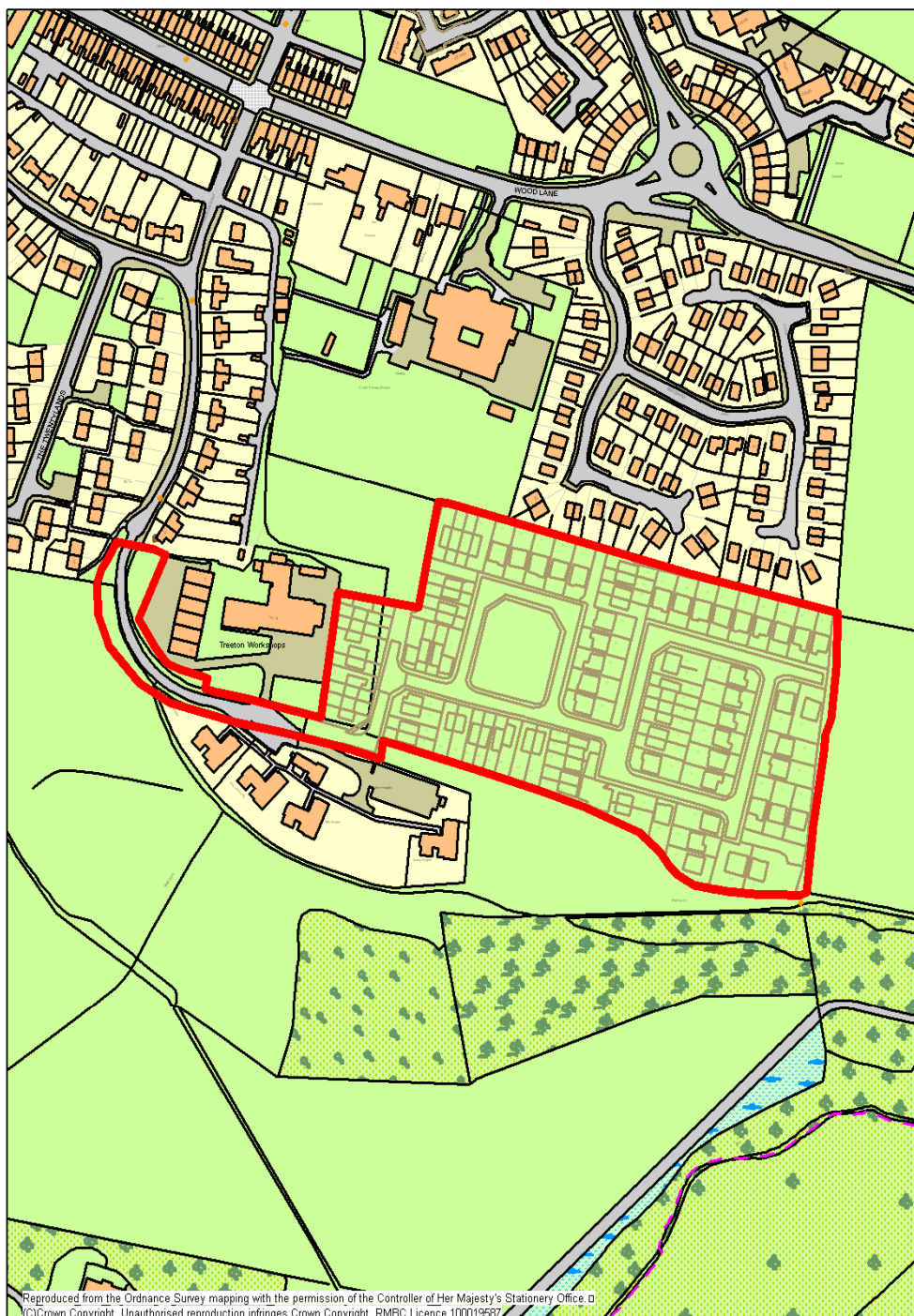
Ref No 2131.31.160H.

To ensure that the development is carried out in accordance with the approved plans.

02

Within 3 months of the date of this decision, a sign stating "Footpath with Permissive Bridleway", with letters not less than 3cm in height, the details of which shall be submitted to and approved by the Local Planning Authority, shall be attached to the entrance feature.

In accordance with Policy T7 Public Rights of Way:



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 <p>Scale 1:2500 Date: 21/06/2011 Map Centre: □ 443603,367296</p>		<p><b>Rotherham MBC</b> Env't &amp; Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p>Where Everyone Matters</p>
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## **Background**

Planning permission for residential development was granted in 2009 (RB2008/0528) subject to various conditions and informatives and the signing of an agreement under Section 106 of the Town and Country Planning Act requiring the provision of 14 affordable housing units and details of the management and maintenance scheme for the proposed public open space areas to be provided on site. Development in respect of this permission has commenced on site.

An application to determine whether certain amendments to the approved scheme could be treated as 'non-material' amendments, including changes to the house types on certain plots, was not accepted by the Council.

Subsequent to that, an application for 'Continuation of the erection of 92 dwellings (15 two storey 2 bedroom dwelling houses, 38 two storey 3 bedroom dwelling houses, and 39 two storey 4 bedroom detached dwelling houses), without compliance with Condition 2 (development in accordance with the approved plans) imposed by RB2008/0528' was granted permission conditionally in 2010 (RB2010/1122). Condition 19 of this permission states:

"Notwithstanding the submitted details on drawing no. 2131.31.160D, the opening in the Entrance Feature Layout shall be widened to a minimum 1.5m and a kissing gate and horse gate fitted, in accordance with details to be submitted to and approved by the Local Planning Authority."

The entrance feature referred to in Condition 19 was in fact built in accordance with the original submitted plans, which were not considered to be acceptable. Following discussions with relevant officers of the Council, the revised scheme was submitted, and it is this revised scheme that forms the basis to the current application. Some of the revisions now proposed have already been carried out.

The proposed development falls within the description contained at paragraph 10b (Urban Development Projects) of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and meets the criteria set out in column 2 of the table in that Schedule (the area of development exceeds 0.5 hectares). However, the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 1999 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the Local Planning Authority has adopted the opinion that the development referred to above for which planning permission is sought is not EIA development as defined in the 1999 Regulations.

## **Site Description & Location**

The overall site is generally rectangular in shape with a long sweeping driveway from the south west corner of the site to the end of the adopted highway Rother Crescent. That driveway also serves the newly completed Autism Centre.

To the north is existing residential development on Bradshaw Avenue and Falcon Drive, as well as Treeton Church of England School and the school playing field. To the east is Green Belt agricultural land, and to the south is the Autism Centre and further Green

Belt land. To the west, between the sweep of the driveway and the main application site is light industrial development on the site of the former Miners Training Centre and residential properties on Rother Crescent. Beyond the driveway is further residential development and Green Belt land.

The entrance feature subject to the current application is located at the end of Rother Crescent, between to the show house and the Autism Centre. There is an informal footpath and a permissive bridleway that passes the site, neither are definitive rights of way.

## **Proposal**

The application is for amendments to the entrance feature originally proposed under RB2010/1122. The feature erected on site indicates the name of the development and includes a pedestrian access point to the footpath system beyond and a separate lockable gate for maintenance vehicle access as well as for horse riders. The pedestrian access includes a 1.5m wide "Kissing gate" at the rear to aid pedestrian access whilst excluding all other unauthorised traffic.

## **Development Plan Allocation and Policy**

### Unitary Development Plan:

The site is allocated for residential purposes and the following Policies are considered relevant in respect of the current application:

ENV 3.1 Development and the Environment, states that development should make a positive contribution to the environment by achieving an appropriate standard of design.

### Policy T7 Public Rights of Way:

"The Council will safeguard, maintain, promote and, where appropriate, create footpaths, cycleways and bridleways as a means of serving local communities, linking areas of Urban Greenspace and improving access to the countryside for recreation purposes. Proposals for the diversion or rationalisation of routes will only be supported if they are in the public interest and in keeping with local land management and planning requirements."

### Policy T8 Access:

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

## **Other Material Considerations**

### National Guidance:

PPS1 Delivering Sustainable Development strongly advocates sustainable development, reuse of land, urban regeneration, and access to a variety of transport modes and well designed buildings in town centres, which respect their surroundings.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes.

### **Publicity**

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

### **Consultations**

Transportation Unit:  
No objections.

Footpaths Officer:  
No objections.

### **Appraisal**

Where an application is made to a local planning authority for planning permission....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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 proposed changes to the entrance feature will assist pedestrian access to the existing footpath system in the vicinity as well as providing separate access for horse riders, whilst excluding all unauthorised traffic. Additionally, the feature forms an attractive visual and informative statement, which names the site and adds a sense of place to the development. It is therefore considered that the proposals will have apposite effect on the environment and will be in accordance with policies ENV 3.1 Development and the Environment, T7 Public Rights of Way and T8 Access of the Unitary Development Plan.

### **Conclusion**

The proposal would have no adverse effect on the amenities of future occupiers and local residents and would enhance access to the existing footpath/bridleway system in the vicinity. It is recommended that permission be granted.

**RB2011/0555**

**Application for permanent retention of spoil mound granted temporary permission for 3 years under RB2007/1738 Aston Comprehensive School, Aughton Road, Swallownest, for Rotherham Metropolitan Borough Council.**

**RECOMMENDATION: GRANT**

**STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION**

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

- a) Development Plan  
Local Planning Policy

Policy ENV 1 Green Belts states that development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area.

Policy CR2.2 Safeguarding recreational areas, states that land presently used or last used for sports grounds playing fields or allotment gardens, will be retained for that purpose during the plan period.

- b) Other relevant material planning considerations

**National Planning Guidance:**

PPG 2 Green Belts states that the most important attribute of Green Belts are their openness and character.

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

- (i) To provide opportunities for outdoor sport and outdoor recreation near urban areas.

Paragraph 3.12 notes that the statutory definition of development includes engineering operations and that the carrying out of such operations are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

Finally PPG 2 states that the visual amenity of the Green Belts 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.

2. For the following reasons:

The proposal maintains the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt and is not therefore

inappropriate development, and has no adverse impact on the visual amenity of the Green Belt, and as such complies with Policy ENV1 Green Belts of the Unitary Development Plan and advice in PPG2 Green Belts.

It is further considered that the development will assist in the provision and retention of recreational facilities in accordance with Policy CR2.2 Safeguarding recreational areas.

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

01

Landscaping of the site as shown on the approved plan (drawing no. L4854/101) shall be carried out during the first available planting season after the granting of this permission. 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.

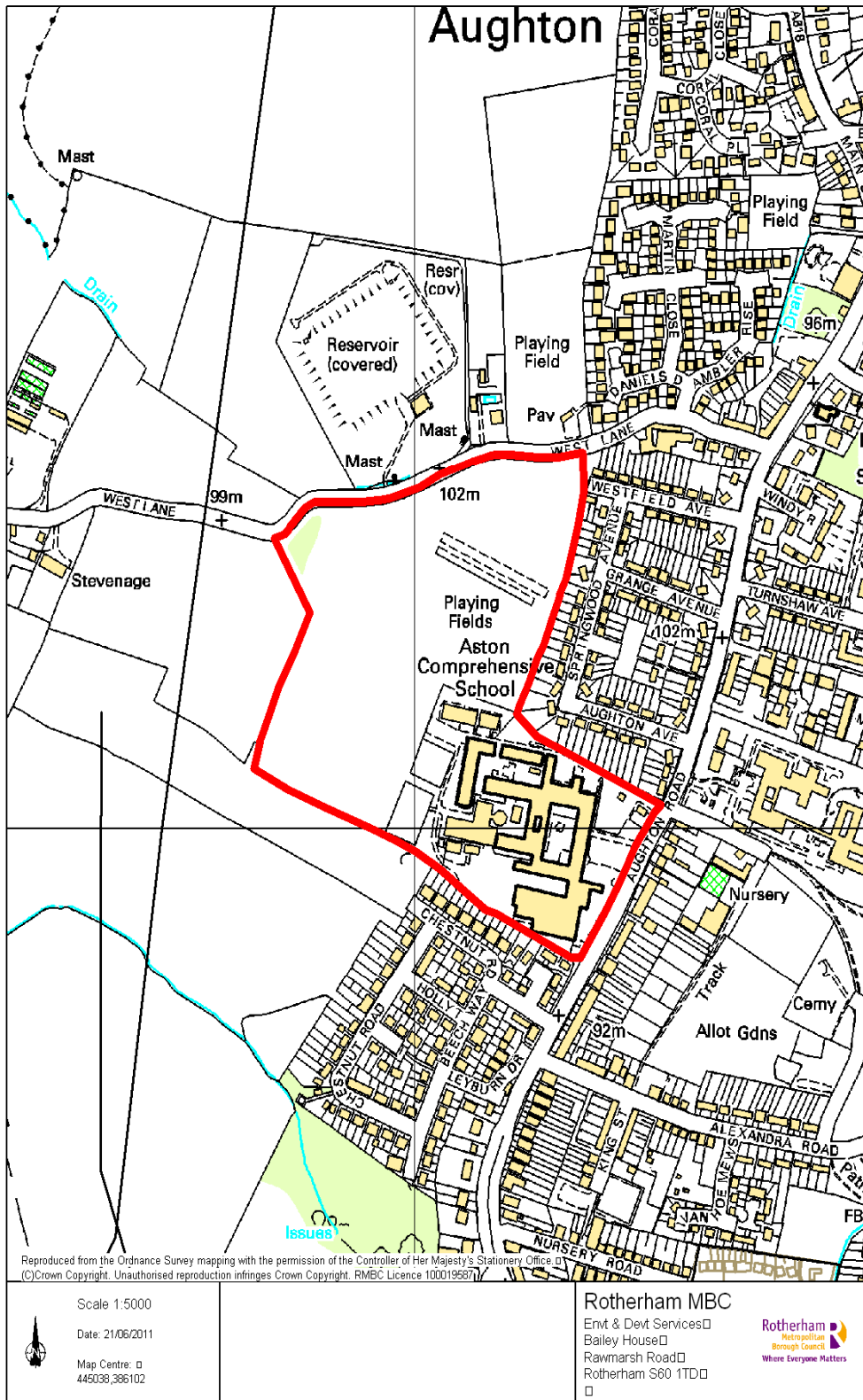
To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

02

Within 12 months of the date of this permission, the following mitigation works shall be carried out:

- 500m training station with exercise stations on the mound
- a cricket practice area that will involve re-grading the area to form an additional 1,064 square metres of playing field
- re-grade an area to the north east of the site to provide a further 573 square metres of playing field

To ensure that adequate play facilities are provided at the site.



## **Background**

Planning permission for the erection of a replacement sports hall and associated parking towards the front of the School site was granted in January 2004 (reference RB2003/2118).

Outline planning permission for the erection of a new secondary school, public library, public swimming pool and sports centre was granted permission subject to conditions in September 2004 (RB2004/0760). Details of the erection of a sports centre including a swimming pool, sports hall and fitness suite were subsequently approved in December 2006 (RB2006/1689).

The existing mound on site was formed during the construction of the new leisure centre, now completed and fronting Aughton Road. Temporary planning permission was granted in 2007 for three years (RB2007/1738).

## **Site Description & Location**

The site forms part of the playing fields for the adjacent school complex, and comprises an earth mound approximately 200m by 20m with gently sloping sides, and approximately 3m high. It is located to the west of the existing playing fields to the Aston Comprehensive School.

To the north are further playing fields whilst to the west is an existing bank of trees which runs the length of the mound, with Green Belt land beyond. To the south is further Green Belt.

## **Proposals**

The application is for the retention of an existing mound created during the development of the adjacent leisure centre and contains demolition materials from materials demolished on the site. The mound is grassed and forms part of the playing field facility.

The application is accompanied by a statement regarding its current use. It indicates that the mound now serves a number of purposes in connection with the school playing fields and the school sports curriculum.

1.

Health and fitness module. The mound is used by students to experience running on types of terrain other than a flat surface. The embankment is also used to warm up, and is a readily identifiable feature on the ground requiring no boundaries for the students' working area.

2.

Acts as a wind break which makes outdoor teaching and communication easier in windy conditions.

3.

Helps prevent footballs etc. being kicked out of the play area and stopping play whilst it is retrieved. This has the added benefit in terms of health and safety, when retrieving balls which may otherwise have entered the tree boundary which also has a barbed wire fence.

4.

Acts as a spectator facility during matches and sports meetings.

## **Development Plan Allocation and Policy**

The site is allocated Green Belt on the UDP and the following Policies are considered to be relevant:

Policy ENV 1 Green Belt states that only development essential for the use of agriculture open recreation or forestry will be allowed unless there are very special circumstances.

Policy CR2.2 Safeguarding Recreation Areas

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

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

## **Other Material Considerations**

National Planning Guidance:

PPG 2 Green Belts states that the most important attribute of Green Belts are their openness and character.

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

- (i) To provide opportunities for outdoor sport and outdoor recreation near urban areas.

Paragraph 3.12 notes that the statutory definition of development includes engineering operations and that the carrying out of such operations are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

Finally PPG 2 states that the visual amenity of the Green Belts 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.

## **Publicity**

The application has been advertised in the press and on site and local residents have been notified. No representations have been received.

## **Consultations**

Sport England:

Has raised the following comments:

“The proposal is for the permanent retention of the spoil mound located to the north of the playing field. Although the mound encroaches into an area that was formerly part of the functional playing field i.e. an area capable of accommodating a pitch or part of a

pitch including its run-off, the encroachment is relatively minimal resulting in the loss of 1242m<sup>2</sup> (equivalent of a junior football pitch).

However, proposals form part of the application to mitigate the loss of playing field. These are in the form of:

- 500m training station with exercise stations on the mound
- a cricket practice area that will involve regrading the area to form an additional 1064m<sup>2</sup> of playing field
- regrade an area to the north east of the site to provide a further 573m<sup>2</sup> of playing field
- overall gain of playing field of 395m<sup>2</sup>

Given the increase in playing field and the proposed sports use of the mound, Sport England is satisfied the proposal meets one of the exceptions (E5) of the above policy, in that:

The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.

This being the case, Sport England does not wish to raise an objection to this application.”

The Transportation Unit:  
No highway involvement.

Environment Agency:  
No objections.

## **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The principle of redevelopment of the school complex site was established by application RB2004/0760, and some of the details granted under application RB2006/1689. This application is to permanently retain the mound created by the first phase of the development.

Consequently the main issues in relation to this application are:

- (i) The principle of the development.
- (ii) The impact on the openness and visual amenity of the Green Belt.

(i) The principle of the development:

The proposal constitutes development in the Green Belt, being an engineering operation. However, it is apparent that it is essential for the use of open recreation, being used as it is for sports training and spectator purposes in connection with the school's sport curriculum. It is therefore considered that the mound is not inappropriate development in the Green Belt and accords with Policies ENV1 Green Belts and CR2.2 Safeguarding Recreation Areas of the Unitary Development Plan, and advice in PPG2 Green Belts.

(ii) The impact on the openness and visual amenity of the Green Belt:

The mound is visually attractive having a gently sloping grassed profile, which integrates well with the existing landscape. It is therefore considered that the mound has no adverse impact on the openness or visual amenity of the Green Belt in this location, and does not conflict with Policy ENV1 Green Belts of the Unitary Development Plan and advice in PPG2 Green Belts.

### **Conclusion**

The proposal is not inappropriate development in the Green Belt and has no adverse impact on the openness or visual amenity of the Green Belt. It is therefore recommended that permission be granted.

**RB2011/0556**

**Application for variation of condition 1 (duration of consent imposed by RB2006/2338) to allow sports hall and classrooms to remain on site for a further five years at Aston Comprehensive School, Aughton Road, Swallownest for Rotherham Metropolitan Borough Council.**

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:

b) Development Plan  
Local Planning Policy

Policy ENV 1 Green Belts states that development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation cemeteries and other uses appropriate to a rural area.

Policy ENV 3.1 Development and the Environment, states that development will be required to make a positive impact on the environment by achieving an appropriate standard of design.....

Policy CR 1.2 Educational Facilities, states that, "The Council will strive to ensure

that the development proposals arising from the educational needs of the Borough's resident population are met."

Policy CR 2.6 Indoor Recreation states that the Council will support proposals for new indoor facilities and the adaptation of existing premises to cater for the recreation, leisure and social needs of the community subject to a range of criteria.

Policy T6 Location and Layout of Development states that, "In considering 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 Planning Guidance:

PPG 2 Green Belts states that the most important attribute of Green Belts are their openness.

Paragraph 1.6, states that Green Belts have a positive role to play in fulfilling certain objectives, one of which is:

- (i) To provide opportunities for outdoor sport and outdoor recreation near urban areas.

Paragraph 3.2 further 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 application or appeal concerning such development."

Paragraph 3.4 adds that the construction of new buildings in the Green Belt is inappropriate development unless it is for the following purposes: agriculture and forestry (unless permitted development rights have been withdrawn) essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it.

Finally PPG 2 states that the visual amenity of the Green Belts 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.

2. For the following reasons:

The temporary sports and education facilities represent inappropriate development in the Green Belt and are, by definition, harmful to the Green Belt. They are also detrimental to the openness and visual amenity of the Green Belt in this location. However, it is considered that very special circumstances exist to clearly outweigh the harm caused in that the facilities are only required for a temporary period and

are essential to provide interim accommodation to facilitate redevelopment of the overall school site. That redevelopment will in time provide additional and significantly improved educational and recreational facilities in accordance with Policy CR 2.6 Indoor Recreation and Policy CR 1.2 Educational Facilities. The delay in developing the permanent school facilities has been a result of the withholding of funding by Central Government through the cancellation of the Building Schools for the Future programme.

It is further considered that the proposal will have no materially adverse effect on the amenities of adjoining occupiers by way of their siting, scale, design and appearance, and that the development is in a sustainable location well served by public transport and close to other facilities including the main school complex itself.

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 & Reasons Imposed:**

1.

This permission shall be valid 5 year only and at the end of that period (unless further permission be granted by the Local Planning Authority prior to the end of that period) the buildings shall be wholly removed and the site restored in a manner to be agreed with the Local Planning Authority.

The proposals represent inappropriate development in the Green Belt and have an adverse impact on the openness and visual amenity of the Green Belt such that a permanent permission would not be appropriate, in accordance with Policy ENV1 Green Belt of the Unitary Development Plan.



## **Background**

Planning permission for the erection of a replacement sports hall and associated parking towards the front of the School site was granted in January 2004 (reference RB2003/2118).

Outline planning permission for the erection of a new secondary school, public library, public swimming pool and sports centre was granted permission subject to conditions in September 2004 (RB2004/0760). Details of some of the reserved matters for the erection of a sports centre including a swimming pool, sports hall and fitness suite was approved in December 2006 (RB2006/1689). That development has now been carried out.

The indoor sports facilities regeneration programme aimed to replace the former network of ageing, unplanned, run-down sports facilities with a strategically planned and sustainable network of modern sports facilities. That strategy has now been implemented and incorporates four new strategically sited pools and fitness facilities including dry sports halls which meet 21<sup>st</sup> century needs. In relation to this site, a five year temporary planning permission for a sports hall, changing facilities and classrooms was granted in 2007, to provide temporary sports and classroom facilities, in the phased redevelopment of Aston Comprehensive School, and to ensure implementation of the above referred to strategy (RB2006/2338).

## **Site Description & Location**

The site forms part of the playing fields for the adjacent school complex. To the north and west are playing fields, whilst to the east are residential properties on Aughton Avenue. To the south are tennis courts and the school complex.

## **Proposals**

The application is for the retention of three temporary buildings to provide decanting accommodation. They include two single storey flat roofed classroom units measuring 25m by 14m and 20.5m by 9.5m. The smaller block contains a classroom, changing facilities and offices all linked to a larger Gymnasium building measuring 18.4m by 14.4m by 9m high. That building has a shallow pitched roof. The other building contains two classrooms, offices and toilet facilities. The buildings are located near the existing school complex with the single storey buildings nearest to the houses in Aughton Avenue. The buildings are finished in a neutral light grey fabric cladding.

The extension to the temporary permission by a further 5 years is as a result of the withdrawal of funding by Central Government.

A statement in support of the proposal has been submitted on behalf of the applicants which states:

“Temporary structures were erected on Green Belt land (part of the School site) following the development of the adjoining Leisure Centre which involved the demolition of the School's existing Sports Hall. Plans were in place to re-build the School including replacing the temporary classrooms and the temporary sports hall through the Building Schools for the Future (BSF) programme. Unfortunately the Coalition Government decision to cease BSF resulted in the rebuild to this School being stopped indefinitely.

Planning permission for the temporary buildings was granted for 5 years only, and this will expire on 22 February 2012 upon which the temporary structures should be removed and the Green Belt site restored.

The School have an outstanding PE department who are very reliant on the delivery of the PE curriculum through the use of the temporary classrooms and the temporary sports hall. If the temporary buildings are removed in accordance with the planning condition it would mean the School would not be able to deliver the PE Curriculum and would have a shortage of teaching areas. The School have advised that given more time they could budget over the next 4 to 5 years to replace this accommodation with permanent buildings located elsewhere on the School site.”

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

The site is allocated Green Belt on the UDP and the following Policies are considered relevant:

Policy ENV 1 Green Belts states that development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation cemeteries and other uses appropriate to a rural area.

Policy ENV3.1 Development and the Environment states:

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

Policy CR1.2 Educational Facilities states:

“The Council will strive to ensure that the development proposals arising from the educational needs of the Borough’s resident population are met.”

Policy CR2.6 ‘Indoor Recreation’ states that the Council will support proposals for new indoor facilities and the adaptation of existing premises to cater for the recreation, leisure and social needs of the community subject to:

- (i) satisfactory access to the highway network and public transport where appropriate,
- (ii) satisfactory means of pedestrian access without disturbance to neighbouring properties,
- (iii) acceptable noise levels,
- (iv) the provision of adequate car parking,
- (v) appropriate limits on hours of use where necessary, and
- (vi) compatibility with other relevant Policies in the Plan.

Policy T6 Location and Layout of Development

“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.”

### **Other Material Considerations**

National Planning Guidance:

PPG 2 Green Belts states that the most important attribute of Green Belts are their openness.

Paragraph 1.6, states that Green Belts have a positive role to play in fulfilling certain objectives, one of which is:

- (ii) To provide opportunities for outdoor sport and outdoor recreation near urban areas.

Paragraph 3.2 further 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 application or appeal concerning such development.”

Paragraph 3.4 adds that the construction of new buildings in the Green Belt is inappropriate development unless it is for the following purposes:

agriculture and forestry (unless permitted development rights have been withdrawn) essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it.

Finally PPG 2 states that the visual amenity of the Green Belts 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.

### **Publicity**

The application has been advertised in the press and on site as a departure and local residents have been notified. No representations have been received.

### **Consultations**

Sport England:

Sport England has no objections to the proposals.

Streetpride (Main Drainage):

No objections but points out that the school complex has had drainage problems in the past and that care should be taken to avoid any further drainage problems. It is also pointed out that old plans show that a pond was once sited near the proposed location of the temporary classrooms.

The Transportation Unit:

No highway involvement.

The Director of Housing and Neighbourhoods (Environmental Health Service):

Has no observations to make.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The principle of redevelopment of the school complex site was established by application RB2004/0760, and some of the details granted under application RB2006/1689. This application is to retain temporary accommodation for existing leisure and educational facilities on the existing site which will be displaced temporarily until the overall strategy for the site is implemented. In this respect the submitted supporting statement indicates that the school anticipates budgeting for permanent buildings elsewhere on the site within the next 4 to 5 years.

Consequently the main issues in relation to this application are:

- (i) The principle of the development.
- (ii) The impact on openness and visual amenity of the Green Belt.
- (iii) The demonstration of very special circumstances to outweigh the harm caused.
- (iv) The impact on the residential amenities of nearby residents.
- (v) Access and sustainability.

(i) The principle of the development:

The proposed retention of the buildings represents inappropriate development in the Green Belt, and consequently the principle of the development is not acceptable. And it

must be considered if there are any very special circumstances to clearly outweigh the harm to the Green Belt. This is discussed in greater detail below.

(ii) The impact on openness and visual amenity of the Green Belt:

The buildings are utilitarian in nature being temporary structures. The colour is neutral grey in order to reduce as far as possible the impact visually. The tallest building is furthest away from the existing dwellings to reduce as far as possible the impact of its massing on the amenities of the occupants but this increases the visual impact to an extent that would be detrimental to the openness and visual amenity of the Green Belt.

(iii) The demonstration of very special circumstances to outweigh the harm caused:

The facilities are only required for a temporary period and are essential to provide interim accommodation to facilitate redevelopment of the overall School site. That redevelopment will in time provide additional and significantly improved educational and recreational facilities in accordance with Policy CR 2.6 Indoor Recreation and Policy CR 1.2 Educational Facilities. The delay in developing the permanent school facilities has been a result of the withholding of funding by Central Government through the cancellation of the Building Schools for the Future programme. Additionally, it should be noted that part of the development, i.e. the changing facilities is essential to the use of open recreation on the adjacent playing fields.

Under the circumstances it is considered that a further temporary planning permission would be justified, and that the economic situation would amount to very special circumstances that would outweigh the harm caused by the inappropriate development, and by the detrimental impact that the development has on the openness and visual amenity of the Green Belt in this location.

(iv) The impact on the residential amenities of nearby residents.

As noted above, The tallest building is furthest away from the existing dwellings to reduce as far as possible the impact of its massing on the amenities of the occupants. The development is sufficiently distanced from nearby properties such that any impact would be minimal, and it is noted that no objections have been received in respect of the proposals.

(v) Access and sustainability:

The development is in a sustainable location well served by public transport and close to other facilities including the main school complex itself. It is therefore considered that the proposal is acceptable in terms of Policy T6 Location and Layout of Development of the Unitary Development Plan.

## **Conclusion**

The temporary sports and education facilities represent inappropriate development in the Green Belt and are detrimental to the openness and visual amenity of the Green Belt, though very special circumstances exist to clearly outweigh the harm caused.

The proposal will have no materially adverse effect on the amenities of adjoining occupiers and the development is in a sustainable location well served by public

transport. It is therefore recommended that permission be granted subject to the safeguard of the recommended conditions.

**RB2011/0595**

**Restoration and change of use from residential to museum/education (use class D1) including partial demolition of main building, ground & first floor extensions, demolition of detached store, alterations to pedestrian access and landscaping of the site (Application Under Regulations 3, 1992) at Boston Castle, Boston Castle Grove, Moorgate, Rotherham for Rotherham Metropolitan Borough Council.**

**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) RS

Policy T2 'Parking Policy' sets out a consistent approach to parking including provision of details of maximum parking standards.

Policy ENV9 'Historic Environment' states that: "The Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration."

(ii) Local Planning Policy

The site is allocated as Green Belt in the Unitary Development Plan. Boston Castle is also a Grade II Listed Building and the Park a Grade II Listed Historic Park and Garden. As such, the following policies are considered to be relevant:

Policy ENV1 'Green Belts' states that: "A Green Belt whose boundaries are defined on the Proposals Map will be applied within Rotherham Borough. In the Green Belt, development will not be permitted except in very special circumstance for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes: (i) agriculture and forestry (unless permitted development rights have been withdrawn); (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; (iii) limited extension, alteration or replacement of existing dwellings; and (iv) limited infilling in existing villages and limited affordable housing for local community needs under

development plan policies according with PPG2 (Green Belts) and PPG3 (Housing).”

Policy ENV2.2 ‘Interest outside Statutorily Protected Sites’:

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

Policy ENV2.6 ‘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 building’s special interest will not be permitted except in exceptional circumstances where such works can be proven to secure the long-term preservation of the listed building.”

Policy ENV2.7 ‘Changes-of-Use to Listed Buildings’ states that:

“When considering proposals for changes-of-use, the Council will ensure the special interest of the listed building is preserved. Such proposals may be considered as an exceptional circumstance for the purposes of Policies

ENV1 and ENV1.2. When a change-of-use is proposed for a Listed Building, it will be assessed by the following criteria: (i) that it is the most effective means of conserving the building, (ii) that the proposals will not materially detrimentally affect architectural, structural or historically significant elements of the building, (iii) that the proposals do not detrimentally affect the setting of the building, and (iv) that the proposed use is viable and will support the maintenance of the building.”

Policy ENV2.8 ‘Settings 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 in order to preserve its setting and historical context.”

Policy ENV2.9 ‘Demolition of Listed Buildings’ states that:

“Demolition of a listed building or any part thereof, will be strongly resisted unless there are overriding and exceptional circumstances. Any such proposal will be assessed against the following criteria. That the proposed demolition is: (i) of a part of the listed building identifiably of no special interest, (ii) of a post 1948 curtilage structure, (iii) is the minimum work required to the minimum area that is structurally damaged, and (iv) in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building.”

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 ENV3.5 Alternative Uses for Rural Buildings and Buildings in the Green Belt “Changes-of-use or conversion of buildings outside established settlements or in settlements within the Green Belt will be permitted or considered to be an appropriate use for purposes of Policies ENV1 and ENV1.2 only where all of the following requirements are met:(i) they satisfy highways criteria for the parking and manoeuvring of vehicles, (ii) the retention of the building will not be detrimental to the character of the surrounding countryside or settlement or measures are incorporated to improve its external appearance,(iii) any historic, architectural, natural history or landscape value of the building and its setting is not detrimentally affected, and (iv) major rebuilding or extension which would affect the character of the building or its setting are not involved. In determining whether or not these requirements are met, the Council will have regard to the degree to which proposals are compatible with detailed Supplementary Planning Guidance. In appropriate circumstances, permissions may be accompanied by the removal of permitted development rights in respect of the planning unit in question.”

Policy T6 ‘Location and Layout of Development’ states that “In considering the location of new development, the Council will have regard to the increasing desirability of reducing travel demand...”

b) Other relevant material planning considerations

PPG2 ‘Green Belts’ Planning Policy Guidance 2 (PPG2) outlines the history and extent of Green Belts and explains their purposes. It describes how Green Belts are designated and their land safeguarded. Green Belt land-use objectives are outlined and the presumption against inappropriate development is set out.

Planning Policy Statement 4 ‘Planning for Sustainable Economic Growth’ states that “Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

(a) the impact of the proposal on existing, committed and planned public and a. private investment in a centre or centres in the catchment area of the proposal.

(b) the impact of the proposal on town centre vitality and viability, including local b. consumer choice and the range and quality of the comparison and convenience retail offer.

(c) the impact of the proposal on allocated sites outside town centres being c. developed in accordance with the development plan.

(d) in the context of a retail or leisure proposal, the impact of the proposal on d. in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy.

(e) if located in or on the edge of a town centre, whether the proposal is of an e. appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres.

Planning Policy Statement 5 'Planning and the Historic Environment sets out the Government's policies for dealing with Listed buildings and other designated heritage assets. PPS5 states that "There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

2. For the following reasons:

RS Policy YH9 refers to Green Belts and states that they have a valuable role in supporting urban renaissance, transformation and concentration and conserving countryside.

This proposal seeks to enhance an existing historic building and bring it back into use for educational purposes and as a museum. It is considered that the use and extensions to the existing building will support urban renaissance in Rotherham and will conserve the historic environment and countryside in line with RS Policy YH9.

The proposed reuse and change of use of the building is considered to be appropriate development within the Green Belt in line with UDP Policy ENV1 and ENV3.5 and PPG2. However, the proposed extensions to the existing building and the car park are acknowledged as being inappropriate development within the Green Belt. Notwithstanding that, the development can only be considered to be unacceptable if there is material harm to the openness or function of the Green Belt. Overall, it is not considered that the development would materially affect the function or openness of the Green Belt.

It is considered that the extension to the north of the building has been sympathetically designed to create an extension which will complement the existing building but remain subservient to it. The extension is an essential part of the proposal as it ensures that the renovated Castle is accessible to all in line with Disability Discrimination Act. The views of this extension are extremely limited and the only view will be from the north elevation where there is a simple elevation of render and glazing. Overall, it is considered that the proposal accords with RSS Policy ENV9 and UDP Policies, ENV2.6 and ENV2.8.

Overall, it is considered that the use of the building and extension is appropriate and will help to secure the long term retention, preservation and reuse of this important Listed Building in line with Policy ENV2.7.

The site is ideally located to benefit from non car modes being within 400m of a high frequency bus route along Moorgate Road (some 10 buses per hour serve Rotherham Town Centre). Pedestrian links are also good and the measures outlined in the Travel Plan seek to promote these and other sustainable modes of travel.

An analysis of the development concludes that the junction of Boston Castle Grove and Moorgate Road will continue to operate satisfactorily following the implementation of the development. Overall, it is considered that the proposal complies with UDP Policy T6.

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

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

02

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.

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'.

03

Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in

September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

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

04

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.

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'.

05

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

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'.

06

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.

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.

07

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

In order to promote sustainable transport choices.

08

Before the development is brought into use a Car Parking Management Strategy shall be submitted to and approved by the Local Planning Authority. The strategy shall include details of the authorised users of the car park, as to how the overspill car parking will function and how access /egress is to be controlled. The development shall be carried out in accordance with the approved Car Parking Management Strategy unless otherwise agreed in writing with the Local Planning Authority.

In the interests of road safety.

09

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.

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

The recommendations should be carried out as shown in the 'Report on Ground Investigation at Boston Castle, Sept 09 – Sub Soils Survey Ltd.' Further investigation and assessment should be carried out in the location of BH3 to further determine the nature and extent of contamination and potential risk to sensitive receptors. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval of the Local Planning Authority. The above investigations/assessments should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination,

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

11

Further ground gas monitoring (in addition to that already undertaken) shall be undertaken to determine the ground gassing regime in line with Ciria C665. These further monitoring visits must include measurements at low and falling atmospheric pressure conditions. Upon completion of the monitoring programme the gas risk assessment shall be revisited and updated in line with Ciria C665 in order to determine the gas protection measures required for the proposed development (if any). The results of the monitoring programme, risk assessment and any recommendations made should be submitted in a short report for approval by the Local Planning Authority.

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

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

12

If remediation works are required at the site, the Local Planning Authority shall approve a remediation strategy prior to any remediation commencing on site. The work shall be of such a nature so as to render harmless the identified contamination given the proposed end use of the site. The remediation work as outlined in the approved strategy shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. Any laboratories used for sampling shall be compliant with UKAS/MCERT or an equivalent approved accredited quality control system.

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

13

If subsoils/topsoils are required to be imported to site for remedial works, then these soils shall be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are suitable for the proposed end use in terms of level of contaminants.

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

14

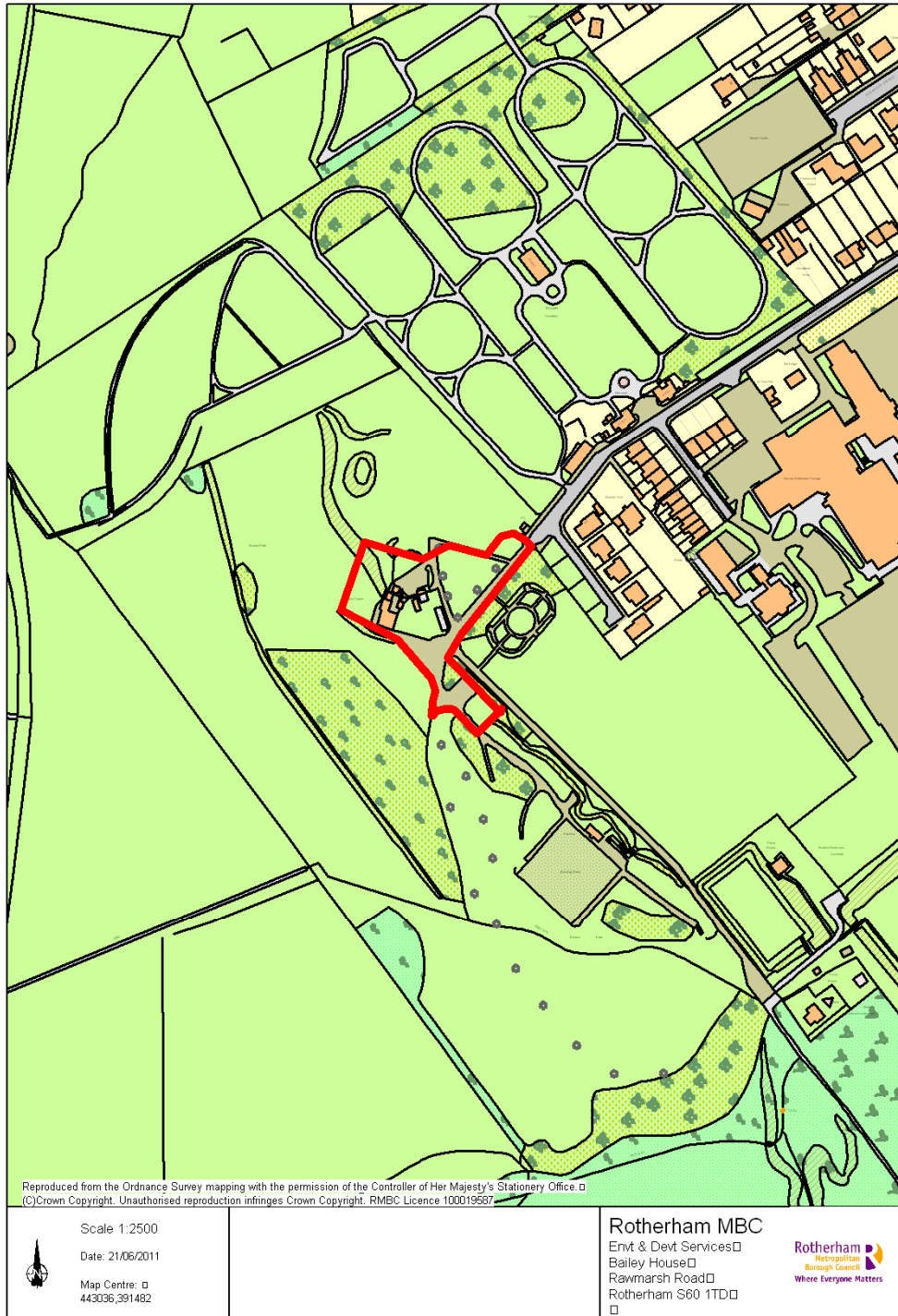
In the event that, during development works, unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. Works thereafter shall be carried out in accordance with an approved Method Statement. This is to ensure the development will be suitable for use and that identified contamination will not present significant risk to human health or the environment.

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

15

Following completion of any remedial/ground preparation works a Validation Report should be forwarded to the Local Authority for review and comment. The validation report shall include details of any required remediation works and the quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post remediation sampling to show the site has reached the required clean up criteria shall be included in the closure report. The planning conditions shall not be discharged until such time as all the validation data has been approved in writing by the Local Planning Authority.

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



## **Background**

RB1995/1154: Listed building consent for a temporary mast single pole (for four weeks) (in December 1995) at roof height on a Grade II listed building - GRANTED CONDITIONALLY 14/11/95

RB1996/0288: Listed building consent for the erection of transmitter and antenna on a Grade II listed building - GRANTED CONDITIONALLY 25/04/96

RB1997/0359: Listed Building Consent for the erection of a radio transmitting antenna - GRANTED 02/06/97

RB2009/0804: Listed Building Consent for demolition of lean-to extension - GRANTED 16/09/09

RB2009/1231: Restoration and change of use from residential to museum/education (Use Class D1) including partial demolition of main building, ground & first floor extensions, demolition of detached store, formation of new car park & access roads, alterations to pedestrian access and landscaping of the site (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) - GRANTED CONDITIONALLY 14/01/10

RB2009/1232: Listed Building Consent for partial demolition of main building, ground & first floor extensions and demolition of detached store - GRANTED CONDITIONALLY 08/01/10

RB2009/1233: Conservation Area Consent for partial demolition of Boston Castle and demolition of detached store at Boston Castle Boston Castle Grove Moorgate - CANCELLED 27/10/09

RB2011/0617: Listed Building Consent for partial demolition of main building, ground & first floor extensions and demolition of detached store (Application Under Regulation 3, 1992) - Undetermined

## **Site Description & Location**

This application relates to Boston Castle and land immediately to the east of the castle, in Boston Park off Boston Castle Grove in Moorgate.

The site consists of Boston Castle itself; a former hunting lodge which is currently in a poor state of repair, a detached brick built store to the east of the Castle, the courtyard area between these two buildings and the existing car parking area to the south.

The Castle occupies an elevated position and the land slopes away steeply to the north and west towards Canklow. To the north-east of the site is Moorgate Cemetery beyond which are residential properties on Boston Castle Grove and Thomas Rotherham College complex whilst to the south is the remainder of Boston Park.

## **Proposal**

Members will recall that an earlier application for planning permission and Listed Building Consent was granted at Planning Board in January 2010 for a similar but significantly larger scheme at this site. This latest proposal has significantly reduced due to funding issues from the previous scheme by omitting the large lower ground floor extension to the north of the castle and omitting the proposed 32 car parking space car park over the existing Coronation Garden to the east of the Castle. This area will remain as a garden.

The scheme as originally submitted in this current application included 9 car parking spaces for day to day use, plus overflow parking for events using the open space in the park to the East of the Coronation Garden.

An amended scheme recently submitted shows an additional 7 spaces, making a total of 18 (to include 2 No accessible spaces). These have been provided by the addition of 3 spaces in front of Boston Castle and 4 spaces in the area to the South East of the Castle adjacent to the Bowling Green. An overspill parking area is also to be made available beyond the Rose Garden, this already having been utilised for a number of previous events.

The application has several elements which will be described below:

### Restoration and Change of Use from residential to museum/education (Use Class D1)

Boston Castle was last used as residential premises in connection with the maintenance of Park. However, it has been vacant for a number of years and has fallen into a state of disrepair and has also been subject of vandalism. There have also been numerous internal and external alterations to accommodate the use of the Castle as a dwelling, in terms of restoration, it is proposed to reinstate the original layout of the Castle internally including reinstating the original staircase position, entrance door on the south east corner (as a fire escape) and the viewing platform at roof level. It is also proposed to replace the modern fireplaces within the building with traditional fireplaces.

In terms of the change of use the refurbished and extended building is proposed to be used as a museum and education centre incorporating museum and interpretation space in the existing Castle.

Demolition of part of the main building and detached store and erection of a single 2 storey side extension.

The revised application includes the demolition of the Victorian extension to the north side of the Castle and also a detached brick built store which is detached and lies to the east of the Castle.

It is proposed to completely demolish the Victorian extension except for the west wall, which is constructed of castellated stonework similar to the castle and to erect a two storey side extension. The side extension to the north of the Castle would contain a new stair and lift tower to provide disabled access to the building. The east elevations of the extension would be faced in natural stone to match the existing Castle and the northern elevation will be faced in a reddish self coloured render with stone and metal surrounds to the windows, a traditional timber window matching the fenestration of the historic part of the Castle would be inserted into the west elevation of the extension at first floor

level. The extension would have a low pitched roof so as not to appear above the castellated parapet on the west wall.

Landscaping, car parking and pedestrian access.

It is proposed to create a new pedestrian access adjoining the main vehicular gates, this will involve the adaption of some of the existing planting to enable a safe and a safe and accessible route to the Castle. It is proposed to create a courtyard amphitheatre and landscaped area immediately to the east of the Castle.

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

Design and Access Statement (Issue 1)

This document describes the development proposals and the rationale behind the design of the proposed development. The document concludes that the development is acceptable in terms of its impact on the Listed Building.

A Planning Statement

This statement addresses issues of design, security, car parking demand and sustainability. The main issues are summarised below :-

That the new planning application for Boston Castle has changed dramatically since the original planning application in October 2009. The need to reduce the scheme, as demanded by Cabinet on 10th August 2010, has lead the Project team not only to consider the Design but also the operational aspects of the project.

This has resulted in a much reduced facility that does not require the infrastructure requirements demanded by the original scheme. Instead of attracting visitor and schools and community groups through the provision of a new multi function area and café, the final proposal relies upon self contained groups using the much reduced area of the Castle itself. The extension to the Castle is now a purely utilitarian building housing, access (stairs and a platform lift), toilets, storage and a plant room.

These changes have resulted in :-

Extension Design

The original proposal submitted with the Planning Application indicated that the new utilitarian extension should be finished in a render to two sides coloured to complement the existing Castle Stonework. The Design and Access Statement proposed that 'the chosen aesthetic for the external walls is that they should be of contrasting materials to the castle itself, to clearly indicate their later construction, and also by their simplicity be subservient in both form and finish to the historic stonework of the Castle. The reference to the previous Victorian extension would be made by the retention of the West wall.

Following the comments of planning officers/Chair and Vice Chair, the Plans, Sections & Elevations Drawing, have been amended to show the East elevation of the new extension to the Castle finished in Rotherham Red Sandstone. The new stonework on this elevation will match the original stonework of the Castle in terms of the material

used but will still be clearly an element of modern design that does not match the architectural form of the original Victorian extension nor the Castle itself.

### Building Management & Security

The Castle will not open to the public as a general policy. On occasions when it is open to the public the Castle will be staffed by the Heritage Service of Archives & Local Studies

It has been identified that Boston Castle will open for 100 days per annum for 4 hours a day (10am-2pm) and it is likely that these days will fall within the spring and summer months. The Castle will, however, also be open on additional days for specific times (35 in Year 1) for talks, school visits, family fun sessions, guided tours and four general open days celebrating either local or national initiatives. During these hours, it will be staffed by one paid member of staff from Heritage Services who will be assisted by a volunteer.

The building itself will be managed by the Council's Green Spaces unit who will ensure that the fabric of the Castle is kept in good order via officers in the Council's Asset Management service. The provision of physical deterrents to actively reduce damage to the Castle once the scheme is completed has been a fundamental objective of the project since its inception. These physical barriers will consist of metal shutters to the windows and doors

The project includes lighting and CCTV, both outside and inside the castle (including a camera broadcasting to the internet), and an alarm system that once activated will automatically contact the Council's preferred security contractor who will respond within 20 minutes, 24 hours per day.

### Car Parking Demand

The attached proposed site plan has been revised to address the concerns expressed about the number of car parking spaces available around Boston Castle. The scheme as originally submitted included 9 car parking spaces and 2 No accessible spaces for day to day use, plus overflow parking for events using the open space in the park to the East of the Coronation Garden. The amended scheme shows an additional 7 spaces, making a total of 18. These have been provided by the addition of 3 spaces in front of Boston Castle and 4 spaces in the area to the South East of the Castle adjacent to the Bowling Green. It had been suggested that further spaces could be gained on the grass verge alongside the entrance road up to the Castle but these have been ruled out for several reasons;

- accidents could possibly occur due to vehicles reversing into the entrance road near to the entrance gates, especially given the likely increased traffic caused by school buses entering or leaving the park;
- the spaces would be treated as parking for residents of, and/or visitors to, Boston Castle Grove and/or Thomas Rotherham College
- it may set a precedent for people to park on the entrance road itself.
- It could be used as a shortcut for joy riders to get into the open space beyond the Coronation Garden

It is envisaged that car parking demand when the castle is closed will be similar to the existing demand which is a relatively low level and contained within the existing surfaced car park within Boston Park.

On days when the Castle is open to school or other educational groups it is envisaged that coaches will be brought onto site and these can be contained within the existing surfaced car park with the ability to turn round in an area adjacent to the castle.

On days when the Castle is open to the general public for events it is envisaged that staff based in the Castle will open the gate to the recreation field for any additional car parking. The field is well drained and flat and has been used for car parking during previous events without rutting or other damage. The capacity of the field is in excess of 500 vehicles however it is not expected that these numbers of vehicles are likely.

### Sustainability

The vision of the project is to restore Boston Castle as a learning centre and visitor attraction, so that:

- it becomes a flagship for Rotherham and a focus of pride for the town
- celebrates the rich diversity and value of its history, natural beauty, ecology, views and character inherent in the Castle and surrounding parklands.
- provides for the needs of current and future communities, whilst respecting and interpreting its past.
- offers an attractive, safe, accessible, welcoming and memorable experience for residents and visitors.

This vision has been refined through a series of consultation events and activities with considerable support being received from the Boston Castle Project Board, local community organisations and groups.

The sustainability and use of Boston Castle and Park will also be significantly advanced by the creation of a comprehensive partnership working approach. This has identified four key areas: improved management and maintenance, addressing anti social behaviour, community use and to improve volunteer opportunities.

### Heritage Impact Assessment

This document concludes that the primary aims of the proposed works on Boston Castle is to return the building to active use whilst preserving and respecting as much as possible of its historic character. All attempts have been made to minimise the impact of the proposed additions to the historic fabric of the building. The current and future public use of the building have been embodied in this in as flexible ways as possible.

### PPS 4 Statement

The applicant has submitted a brief justification for the development in line with the requirements of PPS4. The statement states that a sequential test is not necessary to be submitted with this application as the development is entirely site specific as the purposes of the development are to restore and bring into use Boston Castle.

### Extended Phase I and Protected Species Survey Report

This document concludes that the species and habitats observed during the survey are not considered to offer and constraint to the current proposals. Survey for bats are ongoing, but based on findings so far there are not considered to be any major constraints to the development offered by this species.

#### Geo Environmental Report

This document concludes that elevated levels of contamination could be present below the site; a contamination assessment should be undertaken. Geotechnical investigations of the site should also be undertaken to allow for suitable and economic foundations to be designed for the extension.

#### Development Plan Allocation and Policy

##### a) Development Plan

(i) RS Policy T2 'Parking Policy' sets out a consistent approach to parking including provision of details of maximum parking standards.

Policy ENV9 'Historic Environment' states that: "The Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration."

##### (ii) Local Planning Policy

The site is allocated as Green Belt in the Unitary Development Plan. Boston Castle is also a Grade II Listed Building and the Park a Grade II Listed Historic Park and Garden. As such, the following policies are considered to be relevant:

Policy ENV1 'Green Belts' states that: "A Green Belt whose boundaries are defined on the Proposals Map will be applied within Rotherham Borough. In the Green Belt, development will not be permitted except in very special circumstance for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes: (i) agriculture and forestry (unless permitted development rights have been withdrawn); (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; (iii) limited extension, alteration or replacement of existing dwellings; and (iv) limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing)."

Policy ENV2.2 'Interest outside Statutorily Protected Sites':

"Proposals which would adversely affect, directly or indirectly, any key species, key habitat, or significant geological or archaeological feature, will only be permitted where it has been demonstrated that the overall benefits of the proposed

development clearly outweigh the need to safeguard the interest of the site or feature.”

Policy ENV2.7 ‘Changes-of-Use to Listed Buildings’ states that:

“When considering proposals for changes-of-use, the Council will ensure the special interest of the listed building is preserved. Such proposals may be considered as an exceptional circumstance for the purposes of Policies

ENV1 and ENV1.2. When a change-of-use is proposed for a Listed Building, it will be assessed by the following criteria: (i) that it is the most effective means of conserving the building, (ii) that the proposals will not materially detrimentally affect architectural, structural or historically significant elements of the building, (iii) that the proposals do not detrimentally affect the setting of the building, and (iv) that the proposed use is viable and will support the maintenance of the building.”

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 building’s special interest will not be permitted except in exceptional circumstances where such works can be proven to secure the long-term preservation of the listed building.”

Policy ENV2.8 ‘Settings 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 in order to preserve its setting and historical context.”

Policy ENV2.9 ‘Demolition of Listed Buildings’ states that: “Demolition of a listed building or any part thereof, will be strongly resisted unless there are overriding and exceptional circumstances. Any such proposal will be assessed against the following criteria. That the proposed demolition is: (i) of a part of the listed building identifiably of no special interest, (ii) of a post 1948 curtilage structure, (iii) is the minimum work required to the minimum area that is structurally damaged, and (iv) in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building.”

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 ENV3.5 Alternative Uses for Rural Buildings and Buildings in the Green Belt “Changes-of-use or conversion of buildings outside established settlements or in settlements within the Green Belt will be permitted or considered to be an appropriate use for purposes of Policies ENV1 and ENV1.2 only where all of the following requirements are met:(i) they satisfy highways criteria for the parking and manoeuvring of vehicles, (ii) the retention of the building will not be detrimental to

the character of the surrounding countryside or settlement or measures are incorporated to improve its external appearance, (iii) any historic, architectural, natural history or landscape value of the building and its setting is not detrimentally affected, and (iv) major rebuilding or extension which would affect the character of the building or its setting are not involved. In determining whether or not these requirements are met, the Council will have regard to the degree to which proposals are compatible with detailed Supplementary Planning Guidance. In appropriate circumstances, permissions may be accompanied by the removal of permitted development rights in respect of the planning unit in question.”

Policy T6 ‘Location and Layout of Development’ states that “In considering the location of new development, the Council will have regard to the increasing desirability of reducing travel demand...”

b) Other relevant material planning considerations

PPG2 ‘Green Belts’ Planning Policy Guidance 2 (PPG2) outlines the history and extent of Green Belts and explains their purposes. It describes how Green Belts are designated and their land safeguarded. Green Belt land-use objectives are outlined and the presumption against inappropriate development is set out.

Planning Policy Statement 4 ‘Planning for Sustainable Economic Growth’ states that “Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

- (a) the impact of the proposal on existing, committed and planned public and a. private investment in a centre or centres in the catchment area of the proposal.
- (b) the impact of the proposal on town centre vitality and viability, including local b. consumer choice and the range and quality of the comparison and convenience retail offer.
- (c) the impact of the proposal on allocated sites outside town centres being c. developed in accordance with the development plan.
- (d) in the context of a retail or leisure proposal, the impact of the proposal on d. in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy.
- (e) if located in or on the edge of a town centre, whether the proposal is of an e. appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres.

Planning Policy Statement 5 ‘Planning and the Historic Environment’ sets out the Government’s policies for dealing with Listed buildings and other designated heritage assets. PPS5 states that “There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their

loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

## **Publicity**

Neighbouring properties were notified of the proposal in writing and press and site notices advertised the proposals. One representation has been received from Sheffield Area Geology Trust who have made comments on the application. Their comments shall be summarised below:

- The application has a lack of awareness of the geodiversity interest at the site and have not addresses these issues within the landscaping and development options of the site.
- The development of the site could offer scope for improvements to rock faces within the park.
- Concerned that the proposals could adversely impact on the geodiversity interest at the site.

## **Consultations**

Greenspaces has commented that they wish to support the planning application.

Transportation Unit has no objections to the proposal subject to relevant conditions.

Forward Planning – Raise no objections to the proposals and acknowledge that a sequential test does not need to be submitted as part of this application, as it is site specific. Forward Planning also state that the benefits to the conservation of the Listed Building outweighs any failure to satisfy the requirements of PPS4.

English Heritage – Support the proposals.

Trees and Woodlands Officer has no objections to the proposed development.

## **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The main considerations in the determination of this application are:

- Principle;
- Impact on the openness of the Green Belt;
- Design and Visual Amenity and impact on Listed Building;

- Impact on highway safety.
- Other issues raised by members of the public relating to geodiversity interest at the site.

### Principle

This proposal seeks to enhance an existing historic building and bring it back into use for educational purposes and as a museum. It is considered that the use and extensions to the historic building will support the urban renaissance in Rotherham and will conserve the historic environment and countryside in line with national and local policy objectives.

The site is allocated as Green Belt in the Unitary Development Plan and Boston Castle is also a Grade II Listed Building, with Boston Park being a Grade II Listed Historic Park and Garden.

UDP Policy ENV1 refers to Green Belts and states that “ In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate in a rural area.”

Looking firstly at the re-use of the existing building, UDP Policy ENV3.5 ‘Alternative Uses for Rural Buildings and Buildings in the Green Belt’ states that “changes of use or conversions of buildings outside of established settlements or in settlements within the Green Belt will be permitted or considered to be appropriate only where all of the following criteria are met: (i) they satisfy highways criteria for the parking and manoeuvring of vehicles, (ii) the retention of the building will not be detrimental to the character of the surrounding countryside or settlement or measures are incorporated to improve its external appearance; (iii) any historic, architectural, natural history or landscape value of the building and its setting is not detrimentally affected; and (iv) major rebuilding or extension which would affect the character of the building or its setting are not involved.

These criteria are considered in more detail in the remainder of this report, however, looking solely at the conversion of the building, given that it is an important Listed Building which is to be sympathetically restored and converted to a museum it is considered that the proposal accords with the criteria set out above and is therefore appropriate development within the Green Belt.

In relation to National Planning policy relevant to the conversion of the building PPG2 states that: “The re-use of buildings inside a Green Belt is not inappropriate development providing: (a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it: (b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and (d) the form, bulk and general design of the buildings are in keeping with their surroundings.”

Having established that in terms of local and national planning policy the conversion of the existing building to a museum is considered to be appropriate development and is

acceptable in principle subject to meeting the criteria above, it is now necessary to consider the harm/ impact of the converted and extended building and associated works on the function and openness of the Green Belt.

### Impact on the function and openness of the Green Belt

Boston Castle was originally constructed as a folly, an ornamental landscape feature, with the use as a hunting lodge between 1773 and 1774. It is not certain when an extension to the original Castle was first constructed but it is thought to be Victorian. The Castle was last used as a dwelling but has remained unused since 1996 and is now derelict. The Castle is located within the Green Belt and is also located in a prominent and elevated position.

Looking firstly at the purpose of the Green Belt, PPG2 gives the following five reasons for including land within the Green Belt:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns from merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns, and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Taking this into account it is important to note that Boston Castle is an existing structure which is currently in a state of dilapidation. Although the change of use will intensify the number of visitors to the Castle and Boston Park, the development overall will result in the re-use of a currently disused Listed Building and the refurbishment of a building which currently has a poor appearance which is detrimental to the visual amenity of the historic park and the wider environment. It is considered that, on this basis the change of use of the existing building and the extension would not conflict with the purpose of the Green Belt.

Turning now to the impact on the openness of the Green Belt, it is proposed to demolish the Victorian extension to the northern elevation of the building, except for the west wall, and this to be replaced by a simple modern two storey side extension roughly over the same footprint as the existing structure. It is considered that this extension would be larger than the Victorian extension, though when taken in context against the whole of Boston Castle it is considered that the extension remains subservient to the main building and is not significantly larger than the extension that it replaces and that it will be seen in context and backdrop to the Castle when viewed from any vantage point around the site. In fact from far reaching views to the west of the site across the Green Belt, the extension will not be visible as it would be behind the existing west wall of the Victorian extension, which will retain the historic appearance of the building.

It is noted that this scheme significantly reduces from the previous scheme which has been granted planning permission on the site, as the large lower ground floor addition which was granted as part of this permission has been omitted from these proposals. It is also noted that the car park which would have meant the loss of the Coronation Garden has also been omitted which further significantly reduces the impact of the development on the openness and character of the Green Belt and indeed the Grade II Listed Historic Park and Garden of Boston Park.

Overall it is considered that this revised proposal significantly reduces the visual impact of the development on the Green Belt and on the Grade II Listed Historic Park and Garden of Boston Park.

This revised proposal also proposes to retain and utilise the existing car park and turning facilities within the site and keep the vehicular access through the Park Gates unchanged. As such, this is considered to have no additional impact on the openness of the Green Belt or on the character and appearance of the Grade II Listed Park of Boston Park.

However, it is accepted that some elements of the proposed development (i.e. the extension to the existing building) is inappropriate development within the Green Belt; however, this developments can only be considered to be unacceptable if there is material harm to the openness and function of the Green Belt. Overall, the proposed development seeks to bring back into use an important historical (Grade II Listed) building for use which will be of community benefit and also renovate a currently dilapidated building which has a negative impact on the surrounding environment and Green Belt. Whilst the development will increase the use and size of the building, it is located within a public park where public access should be encouraged. It is not considered therefore that the proposed development would materially impact on the function of the Green Belt and would in fact enhance its use in an appropriate manner.

The applicant has submitted a brief PPS4 Statement which justifies the development. A PPS4 statement is required when a 'town centre' development is proposed in an out of town centre location. For the purposes of PPS4 a museum is a use that is considered to be a town centre use.

The applicant has stated that the stated goal of the project is to restore Boston Castle and to make the facility accessible to all, as a museum and educational learning facility. The proposal is entirely site specific and the brief is to restore the Listed Building and this could not be carried out elsewhere. As such, the applicant is of the opinion that there would be no point in carrying out a sequential test for the development to identify other suitable sites for the museum.

It is considered that this application includes a number of amendments and improvements upon the scheme which will have a lesser impact upon the openness of the Green Belt.

The application includes a change to museum/educational use. PPS4 indicates that museums are main town centre uses to which its policies apply; essentially requiring consideration of the impact and sequential tests given that the site is out of centre. In this instance a full PPS4 assessment is not considered necessary given that a similar scheme has permission on site and could be implemented.

Given the vacant units within Rotherham town centre (town centre survey, April 2011) which may be suitable and available for a museum use, the proposal may not meet the requirements of the sequential test in PPS4, Policy EC15. However the current proposal will bring a listed building back into use and secure its future. In terms of the impact test at PPS4 Policy EC16, it is not considered that the proposal would impact on planned investment within the catchment area, it would not be detrimental to the vitality of the town centre, nor would it affect the likelihood of development occurring on other

allocated sites. The remaining criteria under this policy are not considered relevant in this case.

Whilst recognising that the proposal may not satisfy the sequential test requirements of PPS4, it is acknowledged that an existing permission could be implemented which would result in the same change of use. Further, the proposal will help secure funding which will implement development and secure the future of this Listed Building. As such it is considered that in this instance these conservation issues outweigh any failure to satisfy the requirements of PPS4.

#### Design and Visual Amenity and Impact upon the Listed Building

This section of the report considers the design and visual amenity of the proposed extension and alterations to the castle and the Impact of those proposals upon the Listed Building.

UDP Policy ENV2.9 refers to the demolition of Listed Buildings and states that demolition will be strongly resisted unless there are overriding and exceptional circumstances. The policy sets out a number of criteria against which proposals for demolition shall be assessed:

- (i) of a part of the listed building identifiably of no special interest,
- (ii) of a post 1948 curtilage structure,
- (iii) is the minimum work required to the minimum area that is structurally damaged, and
- (iv) in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building.

The overall vision of the applicant is to restore the Castle as much as possible to its original form and the applicant has stated that the Victorian extension to the north elevation of the building detracts from the original form of the Castle. Consideration has also been given to the retention of this extension but there are structural concerns with the retention and reuse and the form of the extension does not lend itself to use as a lift/stair tower to enable access to the first floor of the building.

The Victorian extension is considered to be poorly built and is of little architectural merit, however, the west wall which is considered to be the most attractive element of the Victorian extension is proposed to be retained as part of the new extension of the building.

It is considered that in this instance the demolition of the majority of the Victorian extension is acceptable given that it is necessary to enable the extension and re-use of the building and that the options of reusing the extension have been discounted.

A variety of options were considered in looking to ensure that the restored Castle would be accessible to all. The option of including a new stair and lift within the Castel has been considered but this would result in such disruption to the internal layout and internal features of the building that this is not a feasible option. The option of using the existing Victorian extension as a stair and lift tower has also been considered but the structure is not suitable for such purposes.

It was for these reasons that it was considered necessary to construct the two storey side extension to the Castle, to house the stair and lift tower. By including the stair and

lift tower within the extension, it is considered that this would have minimal disruption to the historic layout of the building. The height of the extension has been considered and the low pitched roof sits down from the parapet of the Castle and is set down from the parapet of the west wall of the remaining part of the Victorian extension.

In general terms it is considered that the historical context and design of the original castle building has informed the design of the proposed extension in line with local and national policy and guidance. Indeed English Heritage has no objections to the partial demolition of the Victorian extension and consider it to be detrimental to the design of the original Castle.

UDP Policy EN2.8 'Settings and Curtilages 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 in order to preserve its setting and historical context."

It is considered that the extension to the north of the building has been sympathetically designed to create an extension which will complement the existing building but remain subservient to it. The extension is an essential part of the proposal as it ensures that the renovated Castle is accessible to all in line with the Disability Discrimination Act. The views of this extension are extremely limited with the most sensitive and prominent elevation from users of the Park being from the east, when approaching the Castle from the entrance. With this in mind the eastern elevation of the building is to be faced in stone to match the existing building, which is considered to present an attractive and high quality appearance to the extension. The less visually sensitive view from the north elevation would be a simple elevation of render and glazing, which is considered to be acceptable as this elevation would be seen in isolation, as the main views of the Listed Castle cannot be seen from views from the north.

It is further considered that the omission of the lower ground floor extension which was previously granted under the previous planning application will have a significantly lesser impact on the setting of the Grade II Listed building.

Overall, it is considered that the proposal accords with RSS Policy ENV9 and UDP Policy ENV2.8 and guidance contained in PPS5 'Planning and the Historic Environment.'

Change of Use of the building from dwelling to museum and education centre

UDP Policy ENV2.7 refers to the change of use of Listed Buildings and states that the special interest of the Listed Building must be preserved. The change of use must also be assessed against the following criteria:

- (i) that it is the most effective means of conserving the building,
- (ii) that the proposals will not materially detrimentally affect architectural, structural or historically significant elements of the building,
- (iii) that the proposals do not detrimentally affect the setting of the building, and
- (iv) that the proposed use is viable and will support the maintenance of the building.

It is proposed to change the use of the building from a residential dwelling (although it should be noted that the building has been vacant since 1996) to a museum and education use. It is considered that given the location of the building within Boston Park

and its historical context that the proposed use is both appropriate and the most effective means of conserving the building.

Planning Policy Statement 5 'Planning and the Historic Environment states that "There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be."

The existing building has been vacant for approximately 15 years and has been since the time of its last occupation fallen into a state of disrepair. In fact the building has been the subject of vandalism and is now dilapidated. The building belongs to Rotherham MBC and is located within a public park. It is considered that the reuse of the building offers an opportunity to not only bring the building back into use but also to ensure its long term preservation but also to provide a community facility which links the building back to its surrounding parkland.

It is proposed to create a museum within the Earls Room of the Castle and for the use of the building as an educational facility and museum. It is considered that simply converting the building to a museum would have limited benefit, firstly because of its size: it is only a small building and secondly, the attraction to such a museum would be limited but in itself the viability of such a proposal is questionable.

The extension to the building means that a realistic use can be introduced where there is a benefit to local schools, colleges and general training/conference facilities to use an on site educational facility and museum within the Historic Park. Overall, it is considered that the use of the building and its extension is appropriate and will help to secure the long term retention, preservation and re-use of this important Listed Building, in accordance with aims of PPS 5 stated above.

#### Impact on highway safety

The application is similar in essence to a previous proposal for this site, RB2009/1231, which was granted permission in January 2010. The current proposal differs in that fewer facilities are to be made available for the public, the deletion of the conference/meeting area of note. Hence, the car parking is reduced with 18 spaces and 2 No. accessible spaces.

Since the date of the previous permission, a residents parking scheme including waiting restrictions has been implemented in Boston Castle Grove with a view to addressing long standing concerns by residents. The Council's Transportation Unit raise no objections to the proposals in highway safety terms and support the proposal subject to the imposition of suitable conditions.

One condition advocated (Condition 08) will require the applicant to submit details of a car parking management strategy, and the subsequent approval by the Local Planning Authority. The strategy shall include details of the authorised users of the car park, as to how the overspill car parking will function and how access /egress are to be controlled.

#### Geodiversity

A representation has been received from a member of the Sheffield Area Geology Trust who has raised concerns with the proposals in terms of their impact on geodiversity at Boston Park.

Comments raised include the potential for geodiversity interest being enhanced at the site. Though geodiversity interest is a material planning consideration, it is noted that this scheme is much reduced in size and scale from the earlier scheme and the proposed extension to the north of the Castle would be mainly located over the footprint of the existing Victorian extension which would be largely demolished, except for the West wall.

It is also noted that the car parking areas existing at the site would not be substantially altered from the existing, only laid out differently, which would not have any impact on the geodiversity or ecology of Boston Park.

The representative of the Sheffield Area Geology Trust raises concerns regarding the overall management of the geodiversity at the park and would wish to see these assets enhanced at the site. Though this is desirable, it is considered that the overall management of Boston Park does not specifically relate to this application, as this proposal directly relates to the conversion and restoration of the Castle to an educational facility and museum. As such, it is considered that the opportunity or not to enhance the geodiversity of the site is beyond the scope of this planning application and is an issue for the wider management of Boston Park, and therefore cannot be taken into consideration when assessing this application.

### **Conclusion**

The proposal seeks to enhance an existing historic building and bring it back into use for educational purposes and as a museum. It is considered that the use and extensions to the existing building will support the urban renaissance of Rotherham and will conserve the historic environment and countryside.

The proposed re-use and change of use of the building is considered to be appropriate development within the Green Belt in line with UDP Policy ENV1 and ENV3.5 and PPG2. However, though the proposed extension to the existing building is considered to be inappropriate development within the Green Belt, notwithstanding that, the development is considered to not materially harm the openness or the function of the Green Belt as the extension is not considered to be materially larger than the Victorian extension that it is replacing.

It is considered that the extension to the north of building has been sympathetically designed to create an extension which will complement the existing building but remain subservient to it. The extension is an essential part of the proposal as it ensures that the renovated Castle is accessible to all in line with the Disability Discrimination Act. Overall it is considered that the proposal accords with RS Policy ENV9 and UDP Policy ENV2.8.

Overall, it is considered that the use of the building and extension is appropriate and will help to secure the long term retention, preservation and re-use of this important Listed Building in line with Policy ENV2.7.

The site is ideally located to benefit from non car modes of transport being within 400 metres of a high frequency bus route along Moorgate Road (some 10 buses per hour serve Rotherham town centre). Pedestrian links are also good to the site, with the creation of a separate pedestrian access route to the Castle. Overall, it is considered that the proposal complies with UDP Policy T6.

As such, Members are advised to grant planning permission for the development subject to the recommended conditions.

## **RB2011/0617**

### **Listed Building Consent for partial demolition of main building, ground & first floor extensions and demolition of detached store (Application Under Regulation 3, 1992) at Boston Castle, Boston Castle Grove, Moorgate, Rotherham for Rotherham Metropolitan Borough Council**

#### **RECOMMENDATION: Grant Conditionally**

#### **STATEMENT OF REASONS FOR DECISION TO GRANT LISTED BUILDING CONSENT**

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

a) Development Plan

(i) RS

Policy ENV9 'Historic Environment' states that: "The Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration."

(ii) Local Planning Policy

Boston Castle is a Grade II Listed Building set within the Grade II listed Historic Park and Garden of Boston Park.

As such, the following policies are considered to be relevant:

Policy ENV2.6 'Alterations to Listed Buildings' states "Proposals for alterations or additions will be judged against their effect upon a listed building's special interest. Works which harm a building's special interest will not be permitted except in exceptional circumstances where such works can be proved to secure the long-term preservation of the listed building."

Policy ENV2.9 'Demolition of Listed Buildings' states that: "Demolition of a listed building or any part thereof, will be strongly resisted unless there are overriding and exceptional circumstances. Any such proposal will be assessed against the following criteria. That the proposed demolition is: (i) of a part of the listed building identifiably of no special interest, (ii) of a post 1948 curtilage structure, (iii) is the minimum work required to the minimum area that is structurally damaged, and (iv)

in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building.”

b) Other relevant material planning considerations

Planning Policy Statement 5 ‘Planning and the Historic Environment sets out the Government’s policies for dealing with Listed buildings and other designated heritage assets. PPS5 states that “There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

2. For the following reasons:

This proposal seeks to enhance an existing historic building and bring it back into use for educational purposes and as a museum. It is considered that the use and extensions to the existing Grade II Listed Building will ensure its long term maintenance and survival.

It is considered that the extension to the north of the building has been sympathetically designed to create an extension which will complement the existing building but remain subservient to it. The extension is an essential part of the proposal as it ensures that the renovated Castle is accessible to all in line with Disability Discrimination Act. The views of this extension are extremely limited and the only view will be from the north elevation where there is a simple elevation of render and glazing. Overall, it is considered that the proposal accords with RS Policy ENV9 and UDP Policy ENV2.8.

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

**Conditions Imposed:**

01

The works to which this consent relates shall be commenced before the expiration of three years from the date of this consent.

In order to comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

Prior to the commencement of works, the applicant or his successor in title shall submit an archaeological building record of the property (from a suitable qualified specialist), for the approval of the Local Planning Authority. The development shall not proceed

until the Local Planning Authority has approved the archaeological building record in writing.

To provide a permanent record of the Listed Building prior to the alterations being made to the property hereby approved in accordance with Policy ENV2.6 'Alterations to Listed Buildings' of the Adopted Unitary Development Plan.

03

The demolition of the Victorian extension to the north of the Castle shall not take place until a written scheme of programme (including timescales) for the construction of the new development has been submitted to and approved in writing by the Local Planning Authority.

To ensure that the demolition of the Victorian extension is not undertaken in isolation.

04

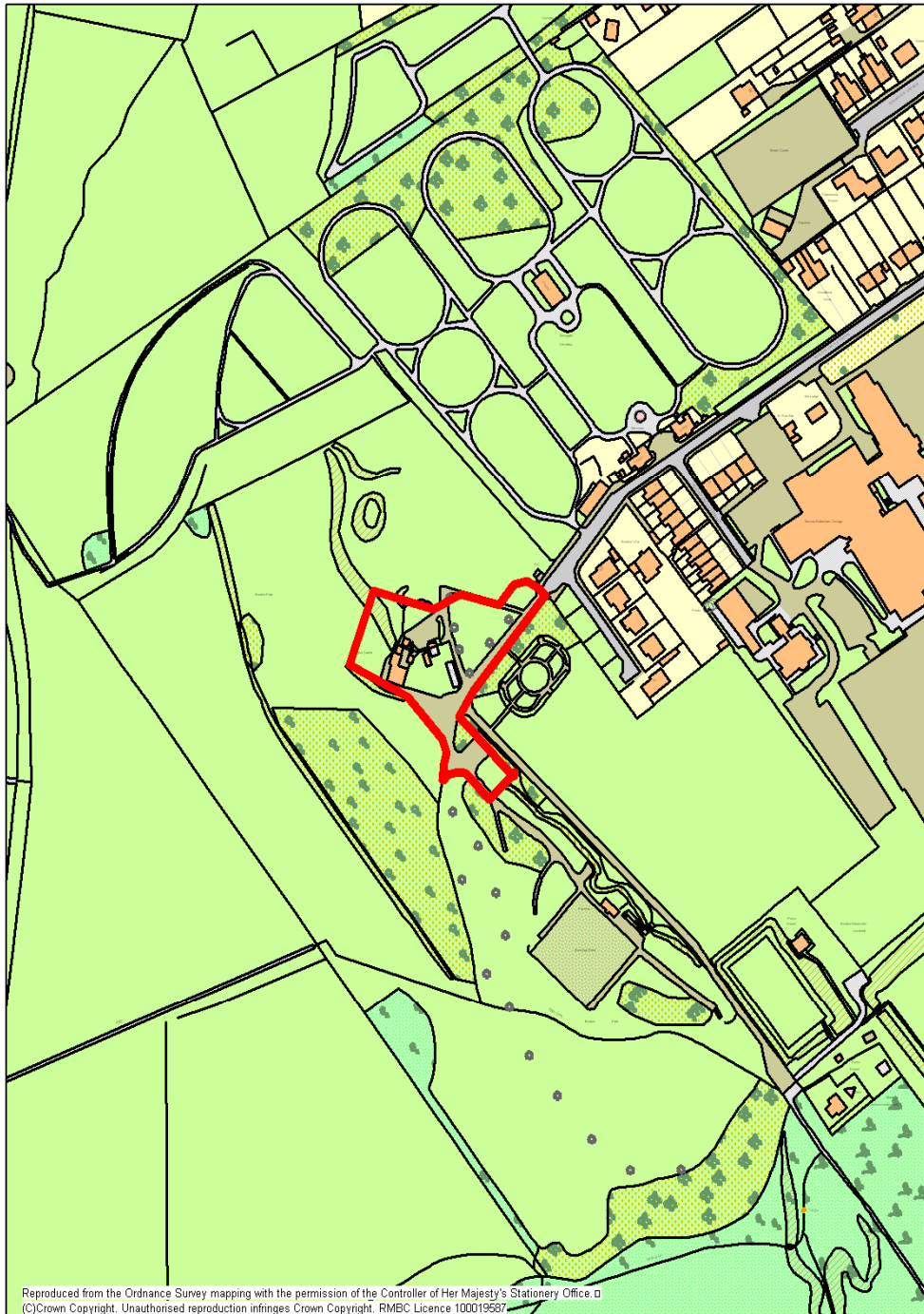
Prior to any demolition, full details of the methods of demolition of the Victorian extension along with details of the measures to ensure the retention of the west wall be submitted to the Local Planning Authority in writing for approval. Development shall proceed in accordance with the approved details.

In the interests of protecting the Listed Building in accordance with Policy ENV2.6 'Alterations to Listed Buildings' of the Adopted Unitary Development Plan.

05

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.

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'.



 <p>Scale 1:2500 Date: 21/06/2011 Map Centre: □ 443036,391482</p>		<p><b>Rotherham MBC</b> Env't &amp; Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □ □</p> 
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## **Background**

RB1995/1154: Listed building consent for a temporary mast single pole (for four weeks) (in December 1995) at roof height on a Grade II listed building - GRANTED CONDITIONALLY 14/11/95

RB1996/0288: Listed building consent for the erection of transmitter and antenna on a Grade II listed building - GRANTED CONDITIONALLY 25/04/96

RB1997/0359: Listed Building Consent for the erection of a radio transmitting antenna - GRANTED 02/06/97

RB2009/0804: Listed Building Consent for demolition of lean-to extension - GRANTED 16/09/09

RB2009/1231: Restoration and change of use from residential to museum/education (Use Class D1) including partial demolition of main building, ground & first floor extensions, demolition of detached store, formation of new car park & access roads, alterations to pedestrian access and landscaping of the site (Application under Regulations 3 & 9A of the Town and Country Planning General Regulations 1992) - GRANTED CONDITIONALLY 14/01/10

RB2009/1232: Listed Building Consent for partial demolition of main building, ground & first floor extensions and demolition of detached store - GRANTED CONDITIONALLY 08/01/10

RB2009/1233: Conservation Area Consent for partial demolition of Boston Castle and demolition of detached store at Boston Castle Boston Castle Grove Moorgate - CANCELLED 27/10/09

RB2011/0595: Restoration and change of use from residential to museum/education (use class D1) including partial demolition of main building, ground & first floor extensions, demolition of detached store, alterations to pedestrian access and landscaping of the site (Application Under Regulation 3, 1992) - Undetermined

## **Site Description & Location**

This application relates to Boston Castle and land immediately to the east of the castle, in Boston Park off Boston Castle Grove in Moorgate.

The site consists of Boston Castle itself; a former hunting lodge which is currently in a poor state of repair, a detached brick built store to the east of the Castle, the courtyard area between these two buildings and the existing car parking area to the south.

The Castle occupies an elevated position and the land slopes away steeply to the north and west towards Canklow. To the north-east of the site is Moorgate Cemetery beyond which are residential properties on Boston Castle Grove and Thomas Rotherham College complex whilst to the south is the remainder of Boston Park.

## **Proposal**

This application for Listed Building Consent was previously granted by the Council in January 2010 for a similar but significantly larger scheme at this site. This latest proposal has been significantly reduced due to funding issues from the previous scheme by omitting the large lower ground floor extension to the north of the castle.

The application has several elements such as the change of use of the building and the landscaping of the site which is the subject of a planning application which members are also considering at this Board (RB2011/0595):

The alterations to the Listed Building include the demolition of part of the main building and detached store and erection of a single 2 storey side extension.

The revised application includes the demolition of the Victorian extension to the north side of the Castle and also a detached brick built store which is detached and lies to the east of the Castle.

It is proposed to completely demolish the Victorian extension except for the west wall, which is constructed of castellated stonework similar to the castle and to erect a two storey side extension. The side extension to the north of the Castle would contain a new stair and lift tower to provide disabled access to the building. The east elevations of the extension would be faced in natural stone to match the existing Castle and the northern elevation will be faced in a reddish self coloured render with stone and metal surrounds to the windows, a traditional timber window matching the fenestration of the historic part of the Castle would be inserted into the west elevation of the extension at first floor level. The extension would have a low pitched roof so as not to appear above the castellated parapet on the west wall.

The proposals include the restoration of the Castle which include the following elements:

- Taking down later partition walls inside the building,
- Opening up original doorways and to block up more recently formed openings,
- Remove the existing internal staircase and to construct a dogleg staircase leading from the front door to the main doorway to the Earl's Room on the first floor, which re-instates the staircase to it's original location within the building,
- Insert fireplaces that would have been contemporary to the style of fireplaces of the period when the Castle was constructed,
- At roof level, reinstate a viewing platform.

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

### Design and Access Statement

This document describes the development proposals and the rationale behind the design of the proposed development. The document concludes that the development is acceptable in terms of its impact on the Listed Building.

### Heritage Impact Assessment

This document concludes that the primary aims of the proposed works on Boston Castle is to return the building to active use whilst preserving and respecting as much as possible of its historic character. All attempts have been made to minimise the impact of

the proposed additions to the historic fabric of the building. The current and future public use of the building have been embodied in this in as flexible ways as possible.

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

- a) Development Plan
- (i) RS

Policy ENV9 'Historic Environment' states that: "The Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration."

- (ii) Local Planning Policy

The site is allocated as Green Belt in the Unitary Development Plan. Boston Castle is also a Grade II Listed Building and the Park a Grade II Listed Historic Park and Garden. As such, the following policies are considered to be relevant:

Policy ENV2.6 'Alterations to Listed Buildings' states "Proposals for alterations or additions will be judged against their effect upon a listed building's special interest. Works which harm a building's special interest will not be permitted except in exceptional circumstances where such works can be proved to secure the long-term preservation of the listed building."

Policy ENV2.9 'Demolition of Listed Buildings' states that: "Demolition of a listed building or any part thereof, will be strongly resisted unless there are overriding and exceptional circumstances. Any such proposal will be assessed against the following criteria. That the proposed demolition is: (i) of a part of the listed building identifiably of no special interest, (ii) of a post 1948 curtilage structure, (iii) is the minimum work required to the minimum area that is structurally damaged, and (iv) in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building."

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."

- b) Other relevant material planning considerations

Planning Policy Statement 5 'Planning and the Historic Environment' sets out the Government's policies for dealing with Listed buildings and other designated heritage assets. PPS5 states that "There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can

be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

## **Publicity**

Neighbouring properties were notified of the proposal in writing and press and site notices advertised the proposals. No representations have been received.

## **Consultations**

Transportation Unit has no objections to the proposals.

English Heritage – Support the proposals though would prefer to see the use of stone to render on the northern and eastern elevations of the extension.

Ancient Monuments Society – Support the proposals to bring Boston Castle back into use though would prefer to see the omission of roller shutters on the main entrance door of the building.

## **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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:

- Impact on the special character and appearance of the Grade II Listed Building from the demolition of the Victorian extension and from the internal and external alterations.

## **Impact upon the Listed Building**

UDP Policy ENV2.9 refers to the demolition of Listed Buildings and states that demolition will be strongly resisted unless there are overriding and exceptional circumstances. The policy sets out a number of criteria against which proposals for demolition shall be assessed:

- (i) of a part of the listed building identifiably of no special interest,
- (ii) of a post 1948 curtilage structure,
- (iii) is the minimum work required to the minimum area that is structurally damaged, and
- (iv) in the last resort, having satisfactorily discounted all other courses of action, necessary, in view of the improbability of retaining the building or part of the building.

The overall vision of the applicant is to restore the Castle as much as possible to its original form and the applicant has stated that the Victorian extension to the north elevation of the building detracts from the original form of the Castle. Consideration has also been given to the retention of this extension but there are structural concerns with the retention and reuse and the form of the extension does not lend itself to use as a lift/stair tower to enable access to the first floor of the building.

The Victorian extension is considered to be poorly built and is of little architectural merit, however, the west wall which is considered to be the most attractive element of the Victorian extension is proposed to be retained as part of the new extension of the building.

It is considered that in this instance the demolition of the majority of the Victorian extension is acceptable given that it is necessary to enable the extension and re-use of the building and that the options of reusing the extension have been discounted.

A variety of options were considered in looking to ensure that the restored Castle would be accessible to all. The option of including a new stair and lift within the Castle has been considered but this would result in such disruption to the internal layout and internal features of the building that this is not a feasible option. The option of using the existing Victorian extension as a stair and lift tower has also been considered but the structure is not suitable for such purposes.

It was for these reasons that it was considered necessary to construct the two storey side extension to the Castle, to house the stair and lift tower. By including the stair and lift tower within the extension, it is considered that this would have minimal disruption to the historic layout of the building. The height of the extension has been considered and the low pitched roof sits down from the parapet of the Castle and is set down from the parapet of the west wall of the remaining part of the Victorian extension.

In general terms it is considered that the historical context and design of the original castle building has informed the design of the proposed extension in line with local and national policy and guidance. Indeed English Heritage has no objections to the partial demolition of the Victorian extension and considers it to be detrimental to the design of the original Castle.

It is considered that the extension to the north of the building has been sympathetically designed to create an extension which will complement the existing building but remain subservient to it. The extension is an essential part of the proposal as it ensures that the renovated Castle is accessible to all in line with the Disability Discrimination Act. The views of this extension are extremely limited with the most sensitive and prominent elevation from users of the Park being from the east, when approaching the Castle from the entrance. With this in mind the eastern elevation of the building is to be faced in stone to match the existing building, which is considered to present an attractive and high quality appearance to the extension. The less visually sensitive view from the north elevation would be a simple elevation of render and glazing, which is considered to be acceptable as this elevation would be seen in isolation, as the main views of the Listed Castle cannot be seen from views from the north.

It is further considered that the omission of the lower ground floor extension which was previously granted under the previous planning application will have a significantly lesser impact on the appearance of the Grade II Listed building.

Turning to the impact of the internal and external alterations of the Listed Building. The Castle was built as a hunting lodge and since the time of its construction it has undergone considerable internal alteration. The proposal include the removal of the existing staircase within the building, which is a later addition to the building, and to reinstate a dog leg staircase in the same location as the original staircase.

No objections are raised to this alteration and this alteration is positively welcomed. Other alterations include the removal of internal partition walls and blocking up more recently formed openings. These alterations are reinstating the internal and external configuration of the building and are considered to be significantly improving the building by restoring it to its original configuration and appearance.

The proposals also include the formation of a viewing platform to the roof of the building. The roof of the Castle has been significantly altered since its construction. During the Second World War a fire watch tower was constructed on the roof. This comprised a timber shed placed on steel joists fixed between the parapet walls at roof level. The timber structure was demolished long ago but the steel joists remain. It is intended to remove these and to restore the roof to its original form, with a viewing platform.

The reinstatement of the viewing platform is positively welcomed and restores what was an original feature as the location of the Castle would have been chosen for its prominence within the landscape and for its far reaching views to guests of the Hunting Lodge.

Though the Ancients Monuments society raised concerns about the use of roller shutters on the building, it is considered that these are unfortunately necessary on the building as the site has experienced anti social and criminal activity in the past and these are necessary to protect the building. It is considered that the appearance of the roller shutters is relatively minor and overall would not harm the special character and appearance of the Grade II Listed Building.

Overall, it is considered that the proposal accords with RSS Policy ENV9 and UDP Policy ENV2.8 and guidance contained in PPS5 'Planning and the Historic Environment.'

### **Conclusion**

The scheme for the restoration and extension of the Grade II Listed Boston Castle is considered to have been sympathetically designed and is considered to largely restore the Listed Building to its original appearance, albeit with a later extension, which is considered to have a minimal impact on the appearance of the building and to facilitate its use for the contemporary period. This scheme by reducing the overall scheme by re-designing the side extension of the Castle and omitting the lower ground floor extension is considered to have a lesser impact on the Listed Building. As such, it is considered that the proposals accords with UDP Policies ENV2.6 and ENV2.7, RS Policy 9 and guidance contained in PPS5.

As such, Members are advised to grant Listed Building Consent for the development subject to the recommended conditions.

**RB2011/0630**

**Continuation of erection of 31 dwellings comprising 2 detached houses, 16 semi-detached houses, and 13 town houses with associated garaging with variation to Condition 16 (approved plans) imposed by RB2010/1152 at land off Mansfield Road/Church Lane, Mansfield Road, Aston, for W. Redmile & Sons 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*

Unitary Development Plan.

Policy HG5 The Residential Environment:

Advocates the use of best practice in housing layout and design.

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

Policy ENV 3.7 Control of Pollution:

“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 relevant material planning considerations*

PPS1 Delivering Sustainable Development states that 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.

PPS 3 Housing reinforces the message from PPS 1. It states that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

PPS 9 Biodiversity and Geological Conservation, aims to conserve and enhance biodiversity and geology.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes, a reduction in the need to travel and the length and frequency of car journey, and reduced car parking provision with maximum recommended levels of provision.

PPG 24 "Planning and Noise" indicates that noise is a material consideration when determining applications for sensitive development, and identifies noise exposure categories for residential development sites.

2. For the following reasons:

The proposed development would make efficient use of land by the provision of well designed residential development at a density of approximately 45 dwellings per hectare, and would have a positive effect on the environment, and enhance the quality and character of the residential environment in a sustainable location. The changes to the scheme previously approved are relatively minor and would not lead to an adverse effect on the residential amenities of adjoining occupiers by way of overlooking or overshadowing.

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

**Conditions Imposed:**

1.

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

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

2.

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

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

3.

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.

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

4.

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.

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

5.

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

No details having been submitted they are reserved for approval.

6.

Notwithstanding the submitted landscaping details, 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.

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

7.

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

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

interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

8.

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.

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'.

9.

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

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

10.

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.

In order to promote sustainable transport choices.

11.

Bedroom ceilings on the upper floors throughout the development shall be constructed from a single layer of at least 12.5 mm plasterboard.

In the interest of the residential amenities of the future occupiers in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan and advice in PPG 24 Planning and Noise.

12.

All bedrooms living rooms and elevations towards Mansfield Road and the Aston bypass shall be fitted with double glazing of at least 4-16-4 standard (or its acoustical equivalent).

In the interest of the residential amenities of the future occupiers in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan and advice in PPG 24 Planning and Noise.

13.

Acoustic trickle vents shall be installed in bedroom windows facing Mansfield Road and the Aston bypass.

In the interest of the residential amenities of the future occupiers in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan and advice in PPG 24 Planning and Noise.

14.

All bedrooms and living rooms other than those in the elevations towards Mansfield Road and the Aston bypass shall be fitted with double glazing of at least 4-16-4 standard (or its acoustical equivalent).

In the interest of the residential amenities of the future occupiers in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan and advice in PPG 24 Planning and Noise.

15.

Before the dwellings are occupied, fencing of a height at least 1.8m high to an acoustical standard shall be installed along the boundaries of gardens facing Mansfield Road and the Aston bypass. This shall include:

Plots 10 to 15 west boundary facing Mansfield Road.

Plots 15, 36 & 37 south boundary facing Aston bypass.

Plots 38 to 42 south west and south east boundaries facing Aston bypass.

The fencing must be completely imperforate with no air gaps. Timber thickness of at least 13 mm shall be used. There shall be no air gap under the lower edge of the fence.

The fencing shall thereafter be retained and maintained.

In the interest of the residential amenities of the future occupiers in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan and advice in PPG 24 Planning and Noise.

16.

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 DM-SL-01, 2B-E1-01,-03, and -04, 3B (EN)-E1-01, -02,-03,-04, and -05, 3B(RA)E1-,01,-02,-03,-04, and -05, 3B-E1-01,-02,-03,-04, and -05,BM-LL01, Bamford Elevations, and Tansley Elevations received on the 18th August 2010, and Drawing Number BM-SL-01 Rev C, received on the 31<sup>st</sup> May 2011.

To define the permission and for the avoidance of doubt.

**Informatives:**

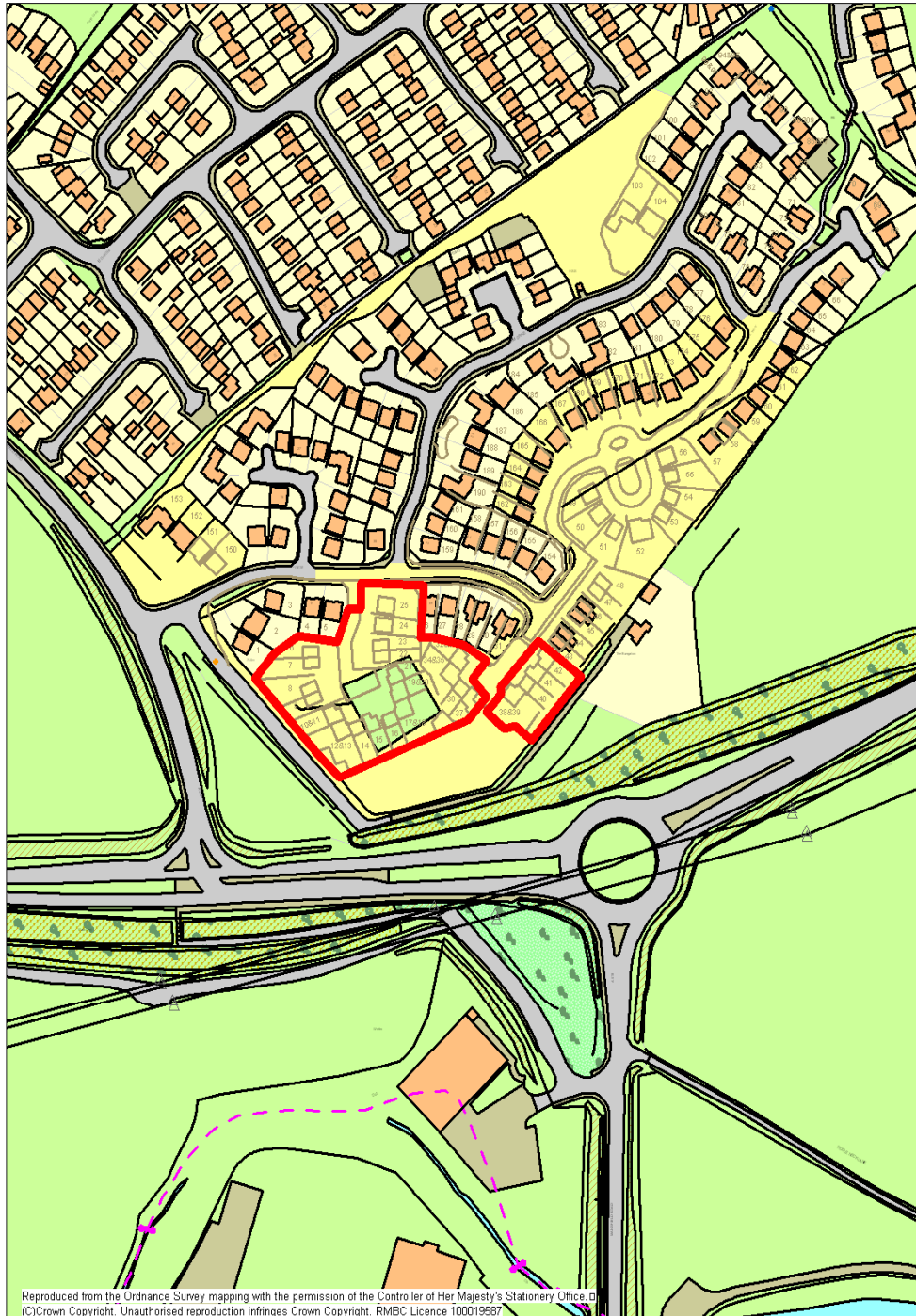
INF 11A Control of working practices during construction phase (Close to residential)

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.



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Scale 1:2500  
Date: 21/06/2011  
Map Centre: □  
446381,384353

Rotherham MBC

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



## **Background**

The site of application forms part of a larger residential development site that is currently being developed and was granted permission in 2000 (RB1999/0264). That permission was subject to conditions and the signing of an agreement under Section 106 of the Town and Country Planning Act 1990, for the securing of a commuted sum for the provision of affordable housing in the locality.

An application for the erection of 31 dwellings comprising 2 detached houses, 16 semi-detached houses, and 13 town houses with associated garaging was granted planning permission in 2010 (RB2010/1152) subject to compliance with a number of conditions, including Condition 16 which states:

“16.

[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 DM-SL-01, 2B-E1-01,-03, and -04, 3B (EN)-E1-01, -02,-03,-04, and -05, 3B(RA)E1-01,-02,-03,-04, and -05, 3B-E1-01,-02,-03,-04, and -05, BM-LL01, Bamford Elevations, and Tansley Elevations received on the 18th August 2010, and Drawing Number BM-SL-01 Rev B, received on the 13<sup>th</sup> October 2010.”

The proposed development falls within the description contained at paragraph 10b (Urban Development Projects) of Schedule 2 to the The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and meets the criteria set out in column 2 of the table in that Schedule (the area of development exceeds 0.5 hectares). However the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 1999 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

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

## **Site Description & Location**

The site is an irregular shaped site located on the southern side of a larger residential development site located on the southern edge of Swallownest. To the south is land which will form part of the Urban Greenspace provision within the overall scheme granted permission under application RB1999/0264. Beyond is Green Belt land which falls towards the Aston Bypass, approximately 80m away. To the north is recently completed residential development and to the east is ongoing development.

## **Proposal**

The application is for the erection of 31 detached, semi detached and terraced houses on land previously granted permission for the same number of dwellings under application number RB2010/1152. The proposals differ to the previously approved plans in respect of:

- (i) Removal of garages on plots 7, 18, 19, 21, and 32-42 and replacement with parking spaces.
- (ii) Altered layout of parking area for plots 32-34.
- (iii) Relocation of a terrace of four (plots 32, 33, 34 and 35) approximately 1m to the south east.

An explanatory note accompanies the application which indicates that the removal of the garages is to reduce costs, and the movement of the houses is to reduce the amount of excavation required on site.

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

The site is allocated residential on the adopted Unitary Development Plan. The principle of the development has previously been accepted and the following policies are considered to be relevant in respect of the current application:

#### **Policy HG5 The Residential Environment:**

“The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone.”

#### **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 ENV3.7 Control of Pollution:**

“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 Guidance:**

PPS1 Delivering Sustainable Development states that 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.

PPS 3 Housing reinforces the message from PPS 1. It states that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

PPS 9 Biodiversity and Geological Conservation.

Aims to conserve and enhance biodiversity and geology, by amongst other things:

- (i) Promoting opportunities to incorporate beneficial biological and geological features in developments.
- (ii) Prevent harm to biological and geological conservation interests.
- (iii) Avoid damage to and repair natural habitats.
- (iv) Protect habitats.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes, a reduction in the need to travel, and the length and frequency of car journey, reduced car parking provision with maximum recommended levels of provision.

PPG 24 "Planning and Noise" indicates that noise is a material consideration when determining applications for sensitive development, and identifies noise exposure categories for residential development sites:

(i)

Category A, noise need not be considered as a determining factor for residential proposals.

(ii)

Category B Noise should be taken into account when determining planning applications.

(iii)

Category C planning permission should not normally be granted, unless there are no alternative sites available and conditions should be imposed to ensure a commensurate level of protection against noise.

(iv)

Category D planning permission should normally be refused.

**Publicity**

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

**Consultations**

Transportation Unit:

No objections subject to appropriate conditions.

Director of Housing and Neighbourhoods (Environmental Health):

No objections.

## **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The site is approximately 0.68 hectares and is allocated for residential purposes and part Urban Green Space. Planning permission has previously been granted for 31 dwellings on the site. The principle of the development is therefore acceptable, and with the exception of the amendments indicated in this application, the development could be carried out in accordance with the plans approved under application RB2010/1152.

The main consideration is the impact on the residential amenities of existing and future residents. All other material planning considerations and issues were addressed under the previous application RB2010/1152.

The removal of the garages would be replaced by surfaced parking areas, and would have no impact on the amenities of adjoining occupiers. Future residents would be able to erect garages in the future if they so wished.

With regard to the relocation of the terrace of 4 houses on plots 32 to 35 inclusive. The proposals would result in less excavation within the site and the end elevation to plot 35 being approximately 15m to the north of the rear main elevation to the house on plot 17, and approximately 18m from the south facing main rear elevation to plot 27. The building would move further away from existing housing outside of the site.

It is therefore considered that the proposals will be in accordance with the parameters normally required for new housing layouts and that there will be no conflict with Policy HG5 The Residential Environment.

## **Conclusion**

The proposed development would make efficient use of land by the provision of well designed residential development at a density of approximately 45 dwellings per hectare, and would have a positive effect on the environment, and enhance the quality and character of the residential environment in a sustainable location. The changes to the scheme previously approved are relatively minor and would not lead to an adverse effect on the residential amenities of adjoining occupiers by way of overlooking or overshadowing.

It is therefore recommended that permission be granted.

**RB2011/0651**

**Outline application for agricultural workers dwelling in connection with proposed free range poultry enterprise to include means of access, layout and scale at Manor Farm off Low Lane, Carr for Mrs. L. Micklethwaite.**

**RECOMMENDATION: REFUSE**

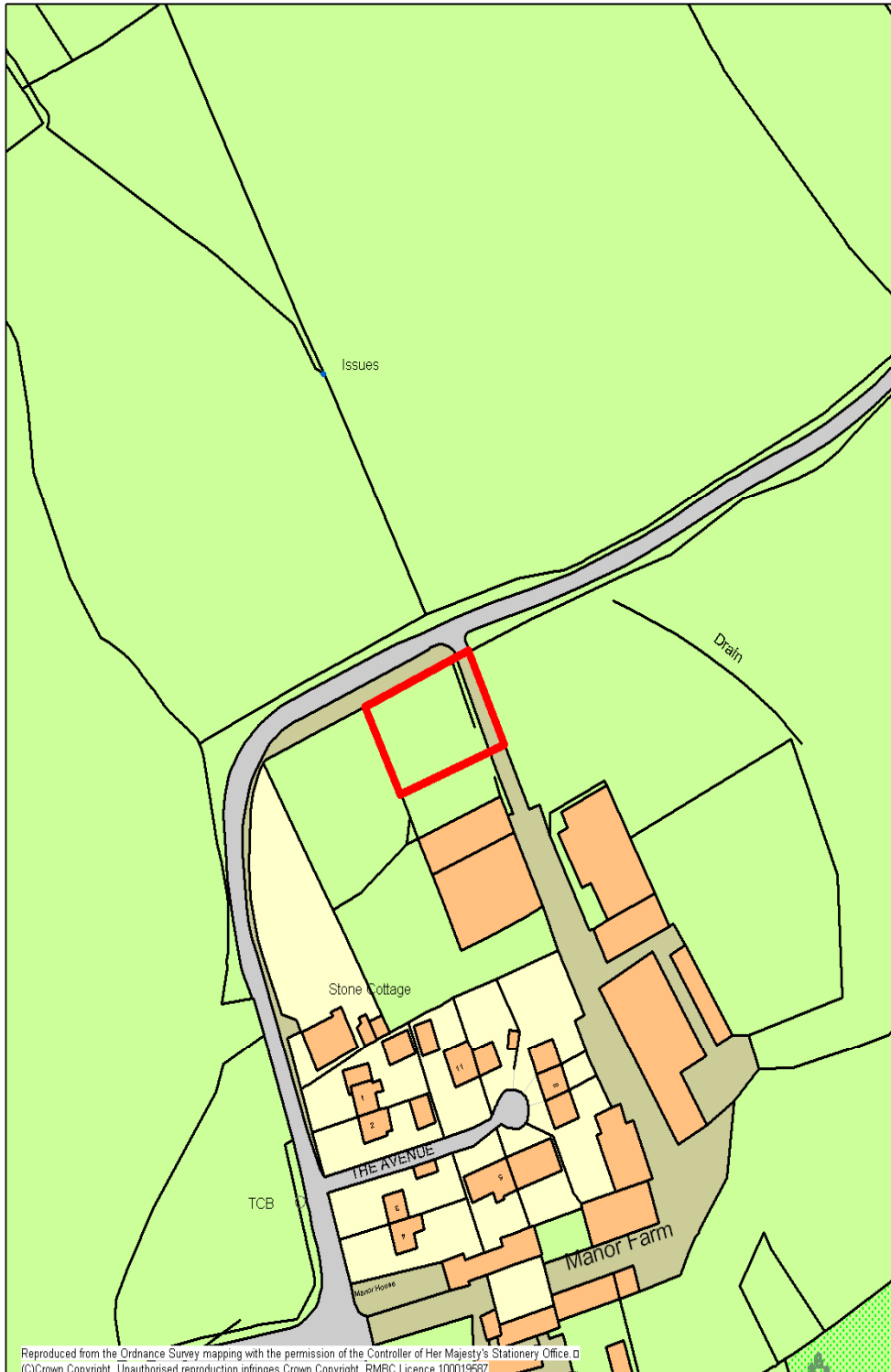
**REASON FOR REFUSAL**

01

The Council is not satisfied from the submitted information that an overriding agricultural necessity for the proposed dwelling exists or that it meets the tests applied in national guidance contained in PPS7. The development would therefore be contrary to Annex A of PPS7: 'Sustainable Development in Rural Areas.'

02

The Council further considers that insufficient information has been provided to enable it to properly assess whether or not the scale and layout of the dwelling as proposed is commensurate with the tests applied in PPS7: 'Sustainable Development in Rural Areas,' or would provide excessive accommodation for a single worker, and that the scale of the development as indicated on this elevated site would appear unduly prominent to the detriment of the openness of the Green Belt, contrary to UDP Policy ENV1 'Green Belts' and national guidance contained in PPG2 'Green Belts.'



 <p>Scale 1:1250 Date: 21/06/2011 Map Centre: □ 451042,390511</p>		<p><b>Rotherham MBC</b> Env't &amp; Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □ □</p>  <p><b>Rotherham</b> Metropolitan Borough Council Where Everyone Matters</p>
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## **Background**

The current buildings and land upon which they are located has been the subject of the following applications:

- RB1977/1638 – Additional piglet weaning unit  
GRANTED CONDITIONALLY 21/09/77
  
- RB1990/1337 - Conversion of existing agricultural buildings to 2 no dwellings  
REFUSED 18/10/90  
Appeal DISMISSED 18/06/91
  
- RB1993/0817 - Extension to farm buildings for cattle rearing  
GRANTED CONDITIONALLY 22/07/93
  
- RB1997/0730 - Erection of an agricultural building to replace existing  
GRANTED CONDITIONALLY 03/11/97

## **Site Description & Location**

The existing Manor Farm complex comprises of a number of agricultural storage buildings currently in a state of disrepair located to the south of the site for the proposed dwelling. They comprise of a mixture of timber frame / concrete structures with cement fibre board roofs, and have historically been used for agricultural storage (machinery / crops) and/or animal storage, (beef, pigs and chickens). To the west of the proposed site is located a horse exercise area and to the east across a further area of open storage lies open agricultural fields which are within the control of the applicant and extend to approximately 12 hectares.

The site to which the application relates comprises of an elevated but level rectangular area of land measuring approximately 23m x 29 m (667sq m) currently used for the storage of agricultural machinery and is accessed via the existing single width farm access track off Low Lane. The site is located on the edge of the existing settlement of Carr village and is screened from the adjacent highway by a mix of natural screening in the form of trees and hedgerows.

## **Proposal**

The application seeks outline planning permission for the erection of an agricultural workers dwelling for use in connection with proposed free range poultry enterprise with details of the means of access, layout and scale to be considered at the outline stage.

In respect of the means of access this is to remain unchanged and proposes to utilise the existing Manor Farm access which is a graded unmade track cut into the existing banking area off Low Lane.

In terms of layout, the proposed dwelling is indicated set towards the northern portion of the site set in from the northern boundary by some 7.5m, set off the west boundary by some 1.2m, and located away from the south boundary at some 8.2m and set off the east boundary by some 5.1m. The footprint of the dwelling is proposed at some 12m x 8m (96 sq m) with a further attached (presumed garage) element measuring some 6.4m

x 6.4m (41 sq m). Whilst in terms of scale, the dwelling is indicated as a two storey stone built unit with slate roof construction.

The supporting statement submitted with the application outlines that a two storey dwelling is required to provide accommodation for the applicant to manage the livestock and land and sets out the reasoning for the development as being:-

- The proposed development lies outside the area of high landscape value which covers the rest of the holding.
- The dwelling would be located adjacent to the access for the holding so access can be supervised on a 24 hour basis from a farm security aspect.
- It would be within sight and sound of the buildings and land.
- It is close to the buildings and land to assist with general livestock management.
- Allows 24 hour supervision of livestock on the holding.
- It will utilise the existing resources supplied to the land of water and access points, and provide the ability to watch over the livestock in the fields all year round.
- The dwelling would be well screened by existing natural screening.

In addition, the application is accompanied by further justification outlining the applicant's previous occupation of the site, the personal circumstances arising from the development along with further information in respect of the proposed free range poultry enterprise.

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

The site is within the Green Belt and the following Unitary Development Plan (UDP) Policies are considered to be relevant:

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

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

### **Other Material Considerations**

Planning Policy Guidance 2: 'Green Belts' (PPG2) states that there is a presumption against inappropriate development in the Green Belt unless there are very special circumstances.

Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) gives advice on the acceptability of new dwellings in the countryside.

Annex A paragraph 2 states:

“It is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings. In particular, it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.”

Paragraph 3 states:

“New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- (i) there is a clearly established existing functional need (see paragraph 4 below);
- (ii) the need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph 8 below);
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.”

Paragraph 4 states: -

“A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- (i) in case animals or agricultural processes require essential care at short notice;
- (ii) to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.”

Paragraph 5 states:

“In cases where the local planning authority is particularly concerned about possible abuse, it should investigate the history of the holding to establish the recent pattern of

use of land and buildings and whether, for example, any dwellings, or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.”

Paragraph 6 states:

“The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling. Nor can agricultural needs justify the provision of isolated new dwellings as retirement homes for farmers.”

Paragraph 7 states:

“If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant.”

Paragraph 8 states:

“New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain. In applying this test (see paragraph 3(iii) above), authorities should take a realistic approach to the level of profitability, taking account of the nature of the enterprise concerned. Some enterprises which aim to operate broadly on a subsistence basis, but which nonetheless provide wider benefits (e.g. in managing attractive landscapes or wildlife habitats), can be sustained on relatively low financial returns.”

Paragraph 9 states:

“Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted.

It is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of dwelling that is appropriate to a particular holding.”

Paragraph 12 states:

“If a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can be easily dismantled, or other temporary accommodation. It should satisfy the following criteria:

- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
- (ii) functional need (see paragraph 4 of this Annex);

- (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other normal planning requirements, e.g. on siting and access, are satisfied.”

Paragraph 13 states:

“If permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraph 3 above are met. The planning authority should make clear the period for which the temporary permission is granted, the fact that the temporary dwelling will have to be removed, and the requirements that will have to be met if a permanent permission is to be granted. Authorities should not normally grant successive extensions to a temporary permission over a period of more than three years, nor should they normally give temporary permissions in locations where they would not permit a permanent dwelling.”

### **Publicity**

The application has been advertised by way of site notice and neighbour notification letters. Seven letters of representation have been received raising the following comments -

Principle / Use:

- Do not consider that a new dwelling is necessary particularly on Green Belt land.
- The original farm house was split up many years ago to form two houses and one of those houses is still attached to the top half of the farm and is owned and occupied by Mrs Micklethwaite’s father and mother in law.
- There are a number of dwellings backing onto the site from The Avenue in Carr of which one we understand is owned by the owner of the farmland but rents the property to her daughter and son in law who run the farm. They also stable horses on the farm site.
- The applicant has property which backs onto the farm and has been used as a means to be close to the farm whenever was needed.
- This seems like an attempt to get planning permission on this Green Belt land by saying that they will have this chicken business and that they need a house on this land.
- Question how many more houses does Manor Farm need to have, as this would be the third one connected to Manor Farm as two have already been sold off to private residents?
- Query the sustainability of such a business.

Viability:

- It is appreciated that the value of the farm would increase considerably should there be a second dwelling on the land and help the owner sell should they wish to do so, particularly as farming such a small farm may not be viable.
- Having spoken with other farmers of chickens, don't believe that this would make a lot of profit and would not last as a viable business long term.

- Don't believe that if planning permission is granted that the business will last long before it is sold on to the highest bidder along with the rest of the assets previously inherited.
- Applicant states that she sold her house and gave up farming as she had no knowledge of farming and to support herself.
- Are we to assume that since leaving Manor Farm she has undergone training to be able to fulfill the demand of such a chicken farm project or is this something that she also has no knowledge of?
- Why would Waitrose give a contract to a novice when there must be other poultry farms that fit the specifications?

#### Highway issues:

- What impact of more vehicles using the already poorly maintained roads has been considered?
- The roads are not suitable for vehicles over a certain size and weight and what weight of vehicle would be sent to collect produce?
- All roads leading to this farm are narrow lanes with vehicle passing places and access would cause difficulties for any proposed HGVs.
- Poultry/livery also brings with it more traffic and large vehicles. All very well to have horses/poultry, they come with trucks and large horse boxes not to mention cars parked on the side of small roads making it impossible to pull in and let other vehicles pass. Exercising horses also makes it difficult and dangerous for traffic.
- Concerned over protection of the existing rights of access through farm yard.

#### Environmental issues:

- Will there be a need to fell all the trees to make way for the property?
- Concerns over environmental issues i.e. noise pollution (3,000 birds) and the proximity of such enterprise near residential properties.
- Query as to what is to be done with the existing farm buildings as some years ago the owners were told to paint them to fit in with the landscape. This has never been done and already an eyesore.
- If this new venture goes ahead there are further concerns that poor maintenance of further sheds will lead to more buildings looking a mess.

#### Other matters:

- Currently the farm receives their electricity and water through our existing property and when problems occur disruption can be experienced.
- Should this new building rely on utilities going over our land this could possibly cause further disruption.
- Is the at present dated sewage system serving that side of the village going to cope with an increase of water and maybe sewage from animals?
- The applicant states that the farm has had thefts, and has not been guarded however none have been reported / witnessed.
- Increased worries as local residents will be prone to a business that attracts criminals to the village that might otherwise not have had a reason to come here.
- Object to the planning application for Manor Farm, as some of the reasons used are false or inaccurate.

Laughton-en-le-Morthen Parish Council make the following comment -

“Having perused the plans we find it very difficult to match the surveyor’s description of the present buildings (described as modern) to the actuality. They are dilapidated and ramshackle, with much old machinery and debris lying around, and the old fold yards, which are used for a few horses when they are not outdoors, appear not to have been mucked out for some time. The whole site has a total appearance of neglect and is certainly not suitable for adaptation to poultry housing. Additionally, this site is immediately behind domestic properties facing the main road and it is not on mains drainage. We are informed that all the red brick properties in this area of Carr are drained into a septic tank in a field immediately below the site. This sloping field is a very steep drop down from the buildings and we would have thought extremely difficult on which to manoeuvre poultry housing as is planned. Also it is clay which puddles in bad weather and on which it is not advisable to keep animals during that time. Additionally, the intensive labour alone and 24-hour presence required on the site to supervise such an enterprise is unrealistic.

To summarise, we feel that the whole site (including the fields) is unsuitable for poultry rearing, breeding etc, therefore rendering void the necessity for building farm labourer’s accommodation.”

### **Consultations**

The Transportation Unit advise that as the proposed dwelling will be adjacent to the existing farm no objections to the granting of planning permission are raised in a highway context, subject to a condition requiring details of suitable hard surfacing materials.

Director of Neighbourhoods and Housing (Environmental Health) comments that there is no significant loss of amenity by virtue of noise, air quality or land pollution impact and therefore no objections are raised.

Severn Trent Water raises no objections to the proposals.

South Yorkshire Fire and Rescue advises that access for fire appliances should be in accordance with Building Regulations Approved Document B volume 1 part B5 section 11.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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.

There are four main considerations in this case:

- Whether the proposals amount to appropriate development in the Green Belt.
- The impact upon the openness of the Green Belt.
- The impact on highway safety.
- The impact on residential amenity.

The appropriateness of the proposal:

Unitary Development Plan Policy ENV1 'Green Belts,' advises that permission will only be given for development in the Green Belt in a limited range of instances, except in very special circumstances. The policy also states that the construction of new buildings in the Green Belt is inappropriate unless for certain specified purposes and this policy is wholly consistent with national advice on development in Green Belts found in Planning Policy Guidance 2 (PPG2).

Paragraph 3.4 of PPG2 and Policy ENV1 advises that the construction of new buildings inside the Green Belt for the purposes of agriculture and forestry is considered to be 'appropriate' development. Nevertheless, Annex A of Planning Policy Statement 7 'Sustainable Development in Rural Areas' 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, the first of which is whether there is a clearly established existing functional need. In this case it is considered that the functional need of the unit relates specifically to the need to run the business from the site and the need arises from the fact that there are no other dwellings available on the holding within the applicant's control, as the original farmhouse for the holding was severed from the farm by previous owners in the late 1980's and divided into two semi-detached houses.

Having investigated this matter further, the Council does not hold any records to suggest permission was granted for the above-mentioned subdivision, however, it is considered that given the timescale involved since this alleged change no formal enforcement action can now be taken.

Supporting information submitted with the application indicates a requirement for one full time worker to reside on site to provide duties such as management and stockmanship tasks and that labour on the unit will initially comprise of the applicant and will provide her sole source of livelihood, although it is acknowledged some assistance may be required for egg collecting, grading and packing.

However, since the sale of the beef cattle in 2005 and the continued use of the site for livery business and the hay produced from the fields, no evidence exists to suggest that the farm has been running unsuccessfully with the applicant living off site. Furthermore no evidence has been forthcoming to support any suggestion that serious loss or crime has been encountered due to a lack of on site supervision. Whilst it is acknowledged that it may be convenient for on site occupation the Council is not convinced from the submitted information that it is essential for the proper functioning of the enterprise for one or more persons to be readily available at most times of the day or night.

The applicant in her justification believes that functional need has been addressed and has set out amongst other items that general security (i.e. tool / machinery theft) and

horse crime is becoming a major rural issue, and that the provision of a dwelling would allow the assets of the farm to be protected. The application does not, however, contain any details of specific security issues on the site, for example actual evidence of thefts from the site. Furthermore, there are no details as to what consideration has been given over to addressing other types of security i.e. CCTV, alarms etc. It is not therefore considered that in this instance the applicant's argument justifies the need for a dwelling on the site. It should further be borne in mind that there is already an occupied dwelling on the site (Manor Farm) whose sole access to the highway passes within close proximity to the proposed dwelling and the existing buildings, where it is considered such continued use provides adequate surveillance over the farm. Additionally existing residential properties at 'The Avenue' to the west, further provide natural surveillance over the farm site.

Annex A paragraph 3(iv) further advises that; "permanent new dwellings should only be allowed where the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned." Although it is not considered a functional need exists in this case, it is still necessary to consider whether such need could be fulfilled by another dwelling.

In this case, there is a suggestion raised in the objection letters received that the applicant has retained property in the immediate locality (no.9 The Avenue) and that it is currently occupied by the applicant's daughter and partner who run the livery business on the farm and therefore this is available for use with the proposed enterprise. No evidence has been put forward to indicate that this is the case, and whilst this property is indicated as being outside of the applicant's control as shown by the accompanying application drawings, there are suggestions raised that this property has in the past contained strong and historic links to the operation on Manor Farm. Given that this property directly abuts and accesses onto the farm at present significant weight should be afforded to this issue.

Taking account of the conflicting information raised by the objectors in terms of the ownership of this property along with the role of the current occupier, and given the lack of information to clarify this matter, as well as the fact that no detailed assessment has been made of other accommodation in the area that may be suitable or available for either rent or purchase. It is considered that the proposal fails the test as set out in paragraph 3(iv) to Annexe A of PPS7.

On the matter of the financial viability of the operation paragraph 3(iii) of Annexe A makes it clear that new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing that; "the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so."

Paragraph 8 of Annex A further advises that "A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain." Whilst paragraph 12 further goes on to outline a number of criteria including: "that there is clear evidence of a firm intention to develop the enterprise concerned, there is a functional need for the accommodation and that the proposed enterprise has been planned on a sound financial basis."

In considering the current application, no financial justification has been forthcoming from the applicant to evidence that such a business proposition would be viable to support the new dwelling proposed. Without such information it is considered that the proposals fail to accord with national policy requirements as set out in PPS7.

In considering the arguments in favour of the development and the submitted information, it is not the case that the proposals could be supported as they do not demonstrate that either a functional need or financial test exists to allow a dwelling on this site and are not therefore in accordance with national policy set out in PPS7. Given the number of operations of this nature that exist across the district it would be all too easy for the same circumstances to be claimed on numerous occasions and for the resultant development to be of considerable harm to the character of the countryside.

Impact upon the openness of the Green Belt:

As the application is in outline and includes details in relation to access, scale and layout, little detail exists in terms of the anticipated form the dwelling would take other than in the supporting documentation which states that the dwelling would be two storeys in height. Clearly this is contrary to the advice contained in Circular 01/2006 'Guidance on Changes to the Planning System,' which requires even a basic level of information, which in regard to the scale parameters should give an indication of the upper and lower limits for height, width and length of each building within the site boundary. No such information is provided.

Notwithstanding the above, it is considered that owing to the site's elevated position and location in an area divorced from the existing lower scale of agricultural buildings on the site, the dwelling would not be seen against a backcloth of buildings and notwithstanding the existing boundary screening along Low Lane it is not thought the effectiveness of this screening – particularly during the winter months, would adequately screen the proposed dwelling and its associated bulk and mass. On this matter it is therefore considered that the proposals would appear unduly prominent to the detriment of the openness of the Green Belt, and contrary to UDP Policy ENV1 'Green Belts' and national guidance contained in PPG2 'Green Belts.'

Highway safety:

With regard to traffic generation, access and parking, in line with the comments received from the Council's Transportation Unit it is considered that the proposals would not unduly prejudice highway safety and that the existing farm access onto Low Lane is capable of accommodating the proposals and the existing farming operation and that the proposal would ensure sufficient parking is available on site.

Residential amenity:

Turning to the impact the proposals may have on the amenities of the owners of nearby properties (Stone Cottage being the closest) owing to the juxtaposition of the proposed new dwelling and the significant distances between these properties it is not considered that the proposals would result in any undue loss of privacy or light or have an overbearing impact upon the residential amenity of the stated property. The impact of any new farming activities cannot be assessed under the current application as the use of the existing buildings for farm related activities (such as chicken rearing) would not

require planning permission. Such controls over noise and smell would therefore be matters controlled under separate legislation.

### **Conclusion**

Having considered the above matters, it is considered that the proposals fail to accord with national policy in respect of the functional and financial tests outlined in PPS7.

Moreover insufficient information has been provided to enable the Council to properly assess whether or not the scale and layout of the dwelling as proposed is commensurate with the tests applied in PPS7; or would provide excessive accommodation for a single worker, and further that the scale of the development as indicated on this elevated site would appear unduly prominent to the detriment of the openness of the Green Belt.

For the above reasons it is recommended that planning permission be refused for the reasons set out at the commencement of this report.

### **RB2011/0668**

#### **Two storey side extension and front porch at 22 Tortmayns, Todwick, Rotherham for Mr. C. Eccles**

#### **RECOMMENDATION: Grant Conditionally**

#### **STATEMENT OF REASONS FOR DECISION TO *GRANT PLANNING PERMISSION***

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

##### **a) Development Plan:**

Policy ENV3.1 Development and the Environment states that development will be required to make a positive contribution to the environment by achieving 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, together with regard to the security of ultimate users of their property.

##### **b) Other relevant material planning considerations:**

Supplementary Planning Guidance 'Adding a Porch' advises that where it is proposed to add a porch it should usually be fairly simple in design, and not bulky or massive so as to dominate the front of the house, that suitable materials should be used in its construction, and that the use of a pitched roof will also improve the appearance of the porch, and is likely to make it more durable than if a flat roof is used.

Supplementary Planning Guidance 'Adding a two-storey side extension' notes that a terraced effect can be created between the properties, drastically changing their appearance. Ideally, this should be avoided altogether, by leaving 1 metre alongside the extension. Where this cannot be done, a more satisfactory appearance can be gained by setting back the first floor of the extension by 0.5 metre or more from the front of the house. This will give relief to the elevation, and will minimise any terracing effect. Materials should match and the roof should match the existing roof.

For the following reasons:

The proposed two storey side and front porch extension comply with the policy and guidance referred to above.

The proposals would not be; detrimental to the amenity of neighbouring residents by way of overshadowing, of an overbearing nature or be detrimental to the visual character/appearance of the area, given their scale, mass and position in relationship to adjoining properties/streetscene.

The proposals would not be detrimental to highway safety.

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 & Reasons Imposed:**

01

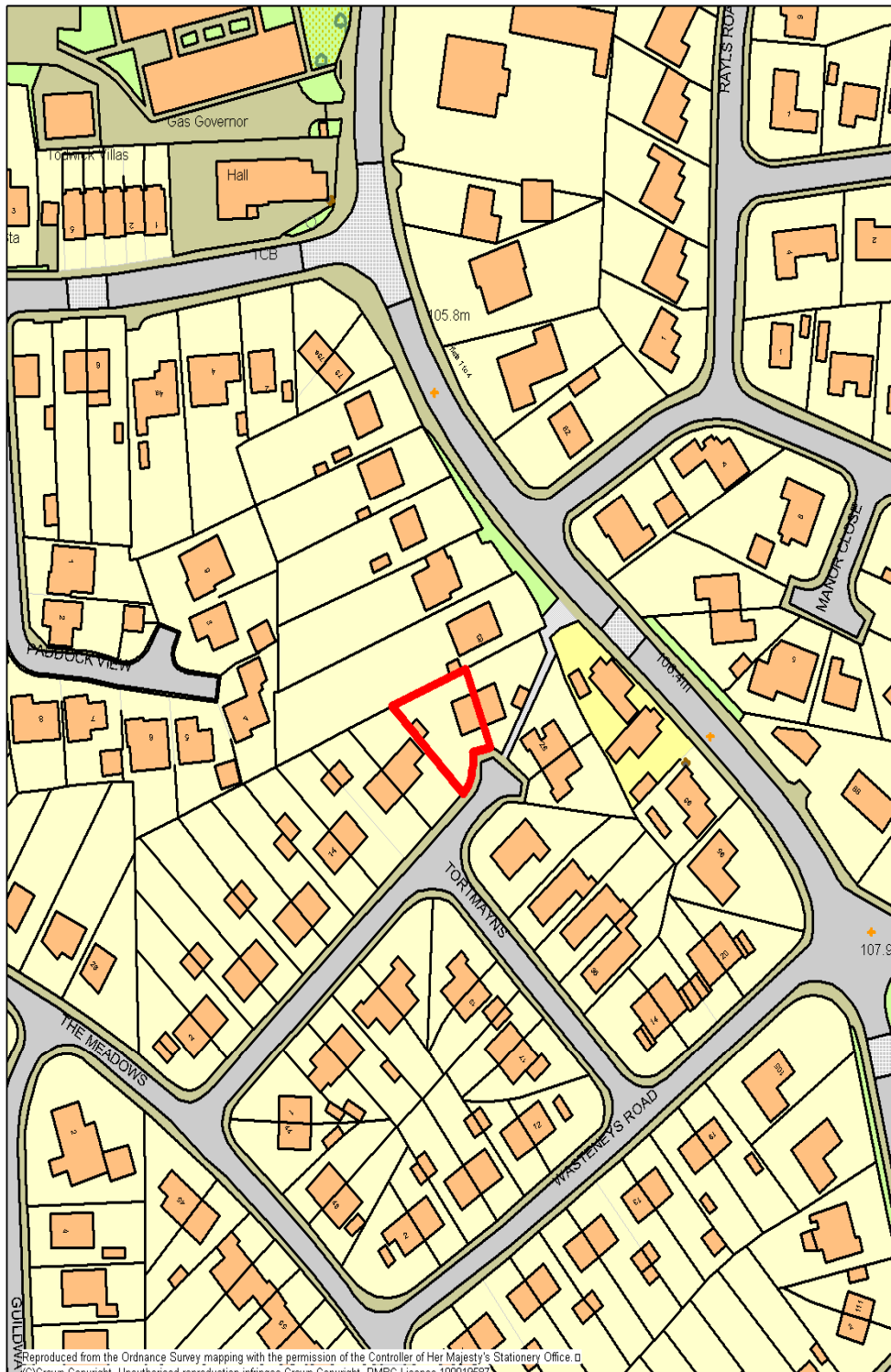
The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

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

02

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.

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 1:1250 Date: 21/06/2011 Map Centre: □ 449524, 364247</p>		<p><b>Rotherham MBC</b> Env't &amp; Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p>Where Everyone Matters</p>
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## **Background**

The applicant works for RMBC and as such this application is being referred to Planning Board for determination.

RB1978/3281: Brick garage - GRANTED 02/11/78.

RB1979/1435: Kitchen & dining room extension - GRANTED 08/08/79.

RB2009/0058: Single storey rear extension - GRANTED CONDITIONALLY 12/03/09.

## **Site Description & Location**

The site of application is a two storey semi-detached property located on the turning head of Tortmayns, a cul de sac located in Todwick. The property is set at an angle away from the neighbouring property no. 20 Tortmayns. A public footpath runs in front of the property leading onto Kiveton Lane.

## **Proposal**

The proposal is for the erection of a two storey side extension and a front porch extension. The two storey side extension would be 5.3 metres in length 3 metres in width and would be 5 metres high to the eaves and 7 metres to the ridge. The ridge of the roof would be set down from the ridge of the main roof of the house by 1 metre. The porch extension would project 1.8 metres from the front of the property and would have a mono pitch roof.

The extensions would be constructed of brick and tiles to match the existing property.

## **Development Plan Allocation and Policy**

The site is allocated residential in the adopted Unitary Development Plan.

## **Space**

Policy ENV3.1 Development and the Environment states that development will be required to make a positive contribution to the environment by achieving 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, together with regard to the security of ultimate users of their property.

## **Other Material Considerations**

Supplementary Planning Guidance 'Adding a Porch' advises that where it is proposed to add a porch that the following points should be considered:

Most porches are exempt from planning control. However, the Council hopes that particular care will be taken in the design of front porches as they can form a significant element in the street scene. The following points should be considered:

A front porch should usually be fairly simple in design, and not bulky or massive so as to dominate the front of the house.

A porch which is mainly or fully glazed can look attractive, provided the glazing is similar in style to the house windows.

Where brickwork or stonework is used it should be of a similar type, colour and texture to the existing house. A structure of utilitarian appearance will spoil the look of the house.

The use of a pitched roof, with tile or slates similar to the existing roof, will also improve the appearance of the porch, and is likely to make it more durable than if a flat roof is used.

Supplementary Planning Guidance 'Adding a two-storey side extension' advises that:

Most two-storey side extensions need planning permission. The Council hopes that care will be taken in the design of all such proposals, as they form a significant element in the street scene. The following points should be considered:

If a house does not have space for an extension and a path, it will not have easy access to the back door and garden. It will also in most cases be necessary to keep a dustbin at the front.

A neighbour may want a similar side extension (or may have already built one). A terraced effect can therefore be created between the two properties, drastically changing their appearance. Ideally, this should be avoided altogether, by leaving 1 metre alongside the extension. Where this cannot be done, a more satisfactory appearance can be gained by setting back the first floor of the extension by 0.5 metre or more from the front of the house. This will give relief to the elevation, and will minimise any terracing effect.

The use of brickwork or stonework of similar type, colour and texture to the existing house is very important. Using a different material will usually make the extension look ill-matched.

A two-storey side extension should normally have a pitched roof to match the existing roof, with similar tiles or slates. The Council is likely to be critical of extensions with flat roofs, as these look unsatisfactory and utilitarian on such a large and prominent addition to the house.

### **Publicity**

The application was advertised by letter to neighbouring adjoining residents. No letters of representation have been received.

### **Consultations**

Transportation Unit: Raises no objections to the proposals.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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.

It is considered that the main issues to be considered are:-

#### Space

- the impact of the proposals on the residential amenity of neighbouring properties; and on the appearance of the property itself.
- highway safety.

With regard to the impact on neighbouring residents it is noted that the two storey side extension would present a blank elevation at first floor level to the neighbouring property of no. 20 Tortmayns. Though a side window is proposed at ground floor level it is noted that a close boarded fence is in situ along the boundary which would screen the neighbouring property from the extension. It is considered that the two storey side extension and front porch extension would not harm the residential amenity of neighbouring residents in terms of loss of light, overbearing impact or overlooking from the extended property.

With regard to the design of the extensions, the overall appearance is considered to match the existing property and does not harm its character and appearance or the surrounding area. It is noted that the two storey side extension is set flush with the front of the property and though the guidance contained in Supplementary Planning Guidance 'Adding a two storey extension' recommends that the extension is set back from the front of the property, to avoid a terracing effect, it is noted that as the property is angled away from the neighbouring property and as a significant gap would remain in between the side of the extension and the neighbouring property, no terracing effect would occur from the proposed extension.

Overall, it is considered that the proposals are acceptable in terms of design and that the extensions match the form and design of the existing property and would appear subservient to it. As such, it is considered that the proposals accord with the provisions of UDP Policy ENV3.1 'Development and the Environment,' and the advice contained in the Supplementary Planning Guidance.

In terms of parking provision, it is further considered that the proposals provide adequate off street parking provision and the Transportation Unit raise no objections to the proposals. As such, it is considered that the proposal is acceptable in highway terms.

#### **Conclusion**

The proposed two storey side and front porch extension comply with the policy and guidance referred to above.

The proposals would not be; detrimental to the amenity of neighbouring residents by way of overshadowing, of an overbearing nature or be detrimental to the visual character/appearance of the area, given their scale, mass and position in relationship to adjoining properties/streetscene.

The proposals would not be detrimental to highway safety.

To the Chairman and Members of the  
PLANNING REGULATORY BOARD

30<sup>TH</sup> June 2011

Report of the Director of Planning and Regeneration Service

ITEM NO.    SUBJECT

1            Appeal Decision – Dismissed

**Page No.**    Appeal against Enforcement Notice requiring the demolition of  
**120**            building on land adjacent to Honeysuckle Cottage, Morthen  
 Road for Mr. Brett Ainsworth (Reference EN2010/231CU).

Appeal Decision – Dismissed

Appeal against refusal of retrospective application for change of  
 use of agricultural land to dog agility centre with ancillary  
 caravan & car parking areas, landscaping & improved vehicular  
 access and use of existing building as ancillary offices & toilets  
 for Mr Brett Ainsworth (Reference RB2010/0254)

2            RB2010/0739 (Appeal A)

**Page No.**    Appeal decision – Dismissed  
**127**

Appeal against refusal of planning permission for the demolition  
 of an existing dwelling and the erection of 4 two-storey dwellings  
 with rooms in the roof space and associated garages at 7, Manor  
 Road, Wales.

RB20010/1090 (Appeal B)

Appeal decision – Dismissed

Appeal against refusal of planning permission for the demolition  
 of an existing dwelling and the erection of 3 two-storey dwellings  
 with rooms in the roof space and associated garages at 7, Manor  
 Road, Wales.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING  
REGULATORY  
BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO  
COMMITTEE  
**30<sup>TH</sup> JUNE 2011**

**Item 1**

**Appeal Decision – Dismissed**

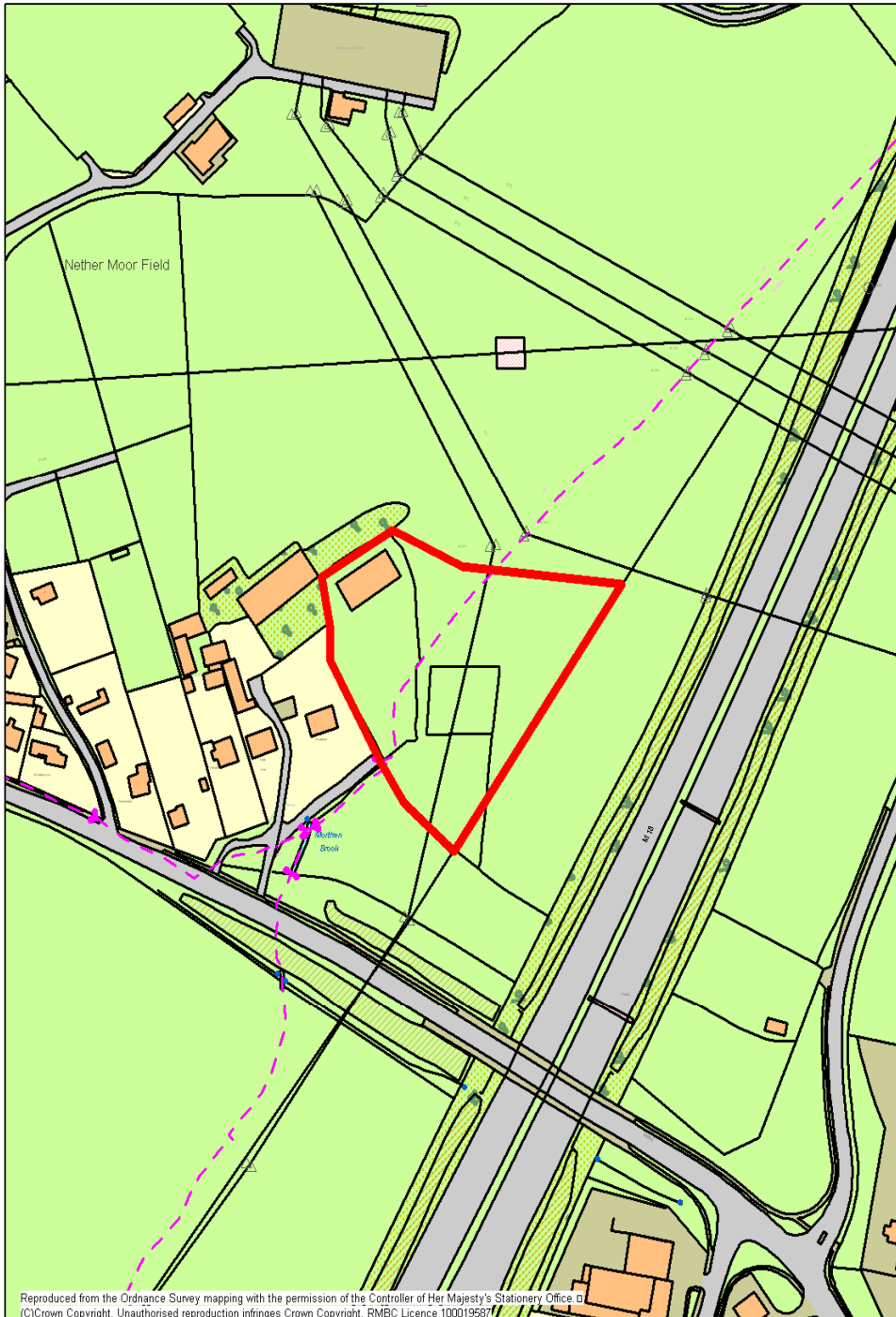
**Appeal against Enforcement Notice requiring the demolition of building on land adjacent to Honeysuckle Cottage, Morthen Road for Mr Brett Ainsworth (Reference EN2010/231CU).**

**Appeal Decision – Dismissed**

**Appeal against refusal of retrospective application for change of use of agricultural land to dog agility centre with ancillary caravan & car parking areas, landscaping & improved vehicular access and use of existing building as ancillary offices & toilets for Mr Brett Ainsworth (Reference RB2010/0254)**

**Recommendation**

That the decision to dismiss the appeals be noted.



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 <p>Scale 1:2500 Date: 21/06/2011 Map Centre: □ 448912,389707</p>		<p><b>Rotherham MBC</b> Envt &amp; Devt Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p><b>Rotherham</b> Metropolitan Borough Council Where Everyone Matters</p>
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## Background

There have been a number of applications relating to the site, including a Prior Approval application for an agricultural building which was approved in 2006 (RB2006/1852). The building subsequently constructed did not resemble the plans approved, primarily as the materials were different and as it included windows and doors and had more of an appearance of an industrial building than an agricultural one. In addition, the building was being used for commercial storage purposes. An enforcement notice was served requiring the cessation of the use of part of the building as an office and a subsequent appeal was dismissed.

However, the building continued to be used for commercial purposes, and two applications were refused in 2008 for alternative uses of the building (RB2008/0520 and RB2008/0521).

Members may recall that application RB2010/0254 (subject to the current appeal) was considered at Planning Board in September 2010 for the retrospective change of use of agricultural land to dog agility centre with ancillary caravan & car parking areas, landscaping & improved vehicular access and use of existing building as ancillary offices & toilets. Members refused planning permission for the following reason:

01

The existing large building on site is unauthorised and is significantly larger than that required for office and toilet/shower facilities in connection with the dog agility operations. The retention of this utilitarian and unattractive building would materially harm the character and appearance of the surrounding area and the openness of the Green Belt. As such, the proposal is contrary to Policy ENV1 'Green Belt', ENV3.1 'Development and the Environment' and Policy CR2.5 'Proposals for New Outdoor Sport and Recreation in the Countryside' of the Rotherham Unitary Development Plan and guidance contained in PPG2: Green Belts.

Members also authorised enforcement action, and an Enforcement Notice was subsequently served on the owners of the site (Mr and Mrs Ainsworth) requiring them to demolish the building, with a compliance period of 3 months.

Appeals were submitted against the refusal of planning permission and against the Enforcement Notice and the Planning Inspectorate combined the two appeals and considered them at an informal Hearing held on 10<sup>th</sup> May 2011. The Council has now been informed of the Planning Inspector's decision, which was to dismiss both appeals and vary the Enforcement Notice to extend the compliance period from 3 months to 6 months.

Finally, a further planning application for the use of the building in connection with 'flyballing' activities associated with the dog agility use of the site was refused in March 2011 (RB2011/0027) as once again it was noted that the existing large building on site is unauthorised and the erection of this building to provide internal dog agility show facilities is not considered to be essential

for the use of the site as a whole for outdoor recreational use. As such, the proposal represents inappropriate development and has an adverse impact on the openness of the Green Belt and no very special circumstances were demonstrated to justify the development. In considering the appeal against the refusal of the previous application, the Inspector gave little weight to evidence relating to the 'flyballing' activities as they did not relate to the application subject to the appeal.

### **Inspector's Decision**

I have now been informed that the Appeals have been dismissed.

There were two elements to the appeal. One was an appeal against the refusal of planning permission, the second element was an appeal against the service of the Enforcement Notice requiring the demolition of the building on the site. The decision on the planning application will be considered first.

### **Appeal against refusal of planning permission (RB2010/0254):**

The Planning Inspector noted that from his inspection of the site and its surroundings, and the representations made at the hearing and in writing, that the main issues were as follows:

- Whether the building or the proposed use represents inappropriate development in the Green Belt for the purposes of Planning Policy Guidance: Green Belts (PPG2);
- The effect of the development on the openness of the Green Belt;
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The Inspector noted that the erection of a new building within the Green Belt is inappropriate development unless it satisfies the exceptions set out in paragraph 3.4 of PPG2. Such exceptions include buildings required for agriculture. However, the appeal building never appears to have been used solely for agriculture and is of a size sufficient for the appellant to introduce a completely new use in a significant proportion of the building and to propose a toilet/shower area in part of the grain store.

The Inspector stated that buildings that provide essential facilities for outdoor sport and recreation and which preserve the openness of the Green Belt can be acceptable. The Inspector considered that although the use of the site for dog agility activities would not conflict with the purposes of including land within the Green Belt, the size and scale of the building fails to preserve its openness and the facilities cannot all be described as being essential to support the outdoor activity, whether these are for office purposes, for the benefit of people engaged in the dog agility events, or indeed carrying out events indoors in adverse weather conditions.

The Inspector therefore considered that the building represented inappropriate development in the Green Belt and that it adversely affects the openness of the Green Belt.

The Inspector noted that the building is prominent from public views from Kingsforth Lane to the east of the site. Its size, scale and appearance is that of a commercial building, not that of an agricultural building or that of modest structures providing essential facilities to support outdoor dog agility activities. The Inspector considered that the building had an adverse impact on the visual amenities of the Green Belt.

The Inspector noted that the appellant states that there is a definite need for the building for agricultural purposes, particularly for the drying and storage of grain and for the storage of equipment. Whilst the Inspector accepted that there may be a need for such facilities, it is evident that this could be accommodated in a much smaller building, otherwise the appellant would not have used a significant proportion of it for other purposes or be proposing the conversion of the rear of the grain store for toilet/shower facilities.

The Inspector noted further that the appellant has sought to diversify his farm activities through the dog agility events and refers to Planning Policy Statement 4: Planning for Sustainable Growth in this respect and also to the economic benefits brought to the area by visitors. The appellant states that some 12-15 events are held each year with training evenings in the summer and on Sunday afternoons in the winter. Whilst there could potentially be benefits to the local economy, the Inspector considered that no detailed evidence was put before him to establish the economic effects of the business. The Inspector considered that in any event, the jobs that the two part time jobs that the dog agility business supports would not necessarily be threatened should the dog agility activities continue as outdoor activities. The Inspector noted that the appellant did not solely rely on the farming activities for his income and this was one of the other business interests that he was involved in.

The Inspector noted that there were no highway objections to the development and that, additionally, the Council indicated that the use of the site for outdoor dog agility activities and ancillary use as a caravan site would generally be acceptable and consequently did not deem it necessary to include such uses in the allegation in the Enforcement Notice.

The Inspector noted that the appellant referred to Policy CR2.6 of the Rotherham Unitary Development Plan (UDP) relating to indoor recreation but considered that the development fails to satisfy all the criteria of that Policy.

The Inspector concluded that the harm caused by the inappropriateness of the development and its effect on the openness and the visual amenity of the Green Belt is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. Consequently the proposed development fails to accord with national policy relating to Green Belts in PPG2 and to Policy ENV1 of the UDP which

generally reflects national Green Belt policy. It is also contrary to UDP Policy CR2.5 relating to proposals for new outdoor sport and recreation in the countryside in respect of the effect on the open character of the Green Belt.

For the reasons given above the Inspector concluded that the appeal against refusal of planning permission should fail.

**Appeal against the Enforcement Notice:**

A number of appeals were made under the Enforcement Notice appeal including under Ground (a) that planning permission should be granted for what is alleged in the notice. In this instance Ground (a) has been considered above under the appeal against refusal of planning permission for the same development and the Inspector's decision does not need repeating. However the other elements of the enforcement appeal will be considered below:

Ground (c) - That there has not been a breach of planning control:

The Inspector noted that where legal grounds of appeal are argued the burden of proof is on the appellant to demonstrate that, on the balance of probability, a breach of planning control has not occurred. The appellant's case on Ground (c) is brief and based on there being a continuing agricultural use of the building. However, the Inspector considered that the appellant ignores the decision of the Inspector in the 2008 enforcement appeal who found that the building required planning permission.

The Inspector stated that the Town and Country Planning (General Permitted Development Order), (the GPDO), only grants permitted development rights for works for the erection of a building which is reasonably necessary for the purposes of agriculture within the unit and for no other purpose. The Inspector noted the letter of Mr Burden confirming his knowledge of the use of the building and the farming activities on the holding. However, the Inspector considered that the building had not been used wholly for agricultural purposes since its construction, having been used for the stone import business and for purposes associated with the dog agility activity.

The Inspector noted that where prior approval is not required, the development should be in accordance with the submitted details and in this respect there are differences in the materials used. He also noted that development is not permitted by the GPDO if it would involve the provision of a building not designed for agricultural purposes.

The Inspector concluded that whilst parts of the building are suitable for agricultural purposes, he found that the building has not been designed solely for agricultural purposes. The building represents development for which planning permission is required and it does not benefit from permitted development rights in the GPDO.

As such, the Inspector stated that the appeal should fail on Ground (c).

Ground (f) - That steps required to comply with the requirements of the enforcement notice are excessive and lesser steps would overcome the objections:

The Inspector noted that although the appellant refers to the height of the building being necessary for agricultural purposes and that partial demolition would not be acceptable, he has failed to suggest any lesser steps. The Inspector noted that the Council considers that the steps are necessary to remedy a breach of planning control, as the building is excessively large to provide for the accommodation of facilities ancillary to the dog activity centre and grain storage. The Council consider that the construction of modest office and toilet/shower facilities could be acceptable in principle as essential facilities for use in connection with the dog agility activities but it would be up to the appellant to apply to the Council to construct more suitably sized buildings.

The purpose of the requirements of a notice is to remedy the breach by restoring the land to its condition before the breach took place. It is necessary for the requirements to match the matters alleged and therefore the Inspector considered that the requirements of the Notice in this case do not exceed what is necessary to remedy the breach. The Inspector considered that the appeal on Ground (f) failed.

Ground (g) – That the time given to comply with the notice is too short.

The Inspector noted that the appellant considers that a compliance period of 3 months would be inadequate to secure and move to alternative premises for the sporting and agricultural uses and he considers that a 6 month compliance period would be appropriate. As the Council at the hearing indicated that they were prepared to accept a 6 month compliance period, the Inspector considered that he saw no over-riding reason to go against the Council's wishes.

For the reason stated above the Inspector concluded that a reasonable period for compliance would be 6 months, and the Inspector considered that he would vary the Enforcement Notice accordingly. As such, the appeal under Ground (g) succeeds to that extent.

## **Conclusion**

The Inspector concluded that the building represented inappropriate development in the Green Belt and had a detrimental impact on the openness and visual amenity of the Green Belt, and that there were no very special circumstances to justify the development. He dismissed the appeals against the refusal of planning permission and against the serving of the Enforcement Notice, though extended the compliance period for demolishing the building from 3 to 6 months. This period expires on 2<sup>nd</sup> December 2011 and the site will be inspected after that date to ensure that the Enforcement Notice has been complied with.

**Item 2**

**RB2010/0739 (Appeal A)  
Appeal decision – Dismissed**

**Appeal against refusal of planning permission for the demolition of an existing dwelling and the erection of 4 two-storey dwellings with rooms in the roof space and associated garages at 7, Manor Road, Wales.**

**RB2010/1090 (Appeal B)  
Appeal decision – Dismissed**

**Appeal against refusal of planning permission for the demolition of an existing dwelling and the erection of 3 two-storey dwellings with rooms in the roof space and associated garages at 7, Manor Road, Wales.**

**Recommendation:**

That the decision to dismiss the appeals be noted.



## Background

Outline planning permission for three houses including the siting, means of access and landscaping was approved in March 2008 (RB2007/1094) subject to conditions.

An application for the erection of three detached houses on the land was submitted in 2010 and subsequently withdrawn (RB2010/0009).

A further application for the erection of four detached houses on the site (RB2010/0739) was submitted and refused permission under Delegated powers in August 2010 for the following reasons:

1. The Council considers that the proposed development would result in overdevelopment of the site by virtue of the overall number of dwellings and its cramped uniformed linear layout and as such results in a poor relationship with adjoining development and the street scene in general, contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan and national planning guidance in PPS1 'Delivering Sustainable Development'.
2. The Council further considers that the proposed appearance of the dwellings by virtue of their height, scale, massing and design along with the location of the garages in front of the houses and the amount of hard surfacing proposed represents a poor standard of design, unsympathetic to the context of the site and the street scene in general and further fails to take the opportunities available for improving the character of the area. The proposal is thereby contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan and national planning guidance in PPS1 'Delivering Sustainable Development'.

Finally an application for the erection of three dwellings on the site (RB2010/1090) was refused permission, also under Delegated powers, in November 2010 for the following reason:

1. The Council considers that the proposed appearance of the dwellings by virtue of their elevated position, scale, and massing represents an unacceptable cramped form of development, and would be a dominant and incongruent element in the street scene, which fails to take the opportunities available for improving the character of the area. The proposal is thereby contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan and national planning guidance in PPS1 'Delivering Sustainable Development', and PPS 3 'Housing'.

Appeals against the refusal of both the proposal for 4 houses on the site (RB2010/0739) and the proposal for 3 houses (RB2010/1090) were subsequently submitted.

### **Inspector's Decision**

The Inspector considered that the main issue in both appeals is whether the proposals would be a cramped and over dominant form of development which would fail to make a positive contribution to the street scene.

The Inspector is of the opinion that the existing dwelling is unsympathetic to the area, on a site which is unkempt and uncared for. The development offers an opportunity to enhance the quality of the residential environment, an outcome encouraged by Unitary Development Plan Policy HG 4 the Residential Environment, and reinforced by Policy ENV 3.1 Development and the Environment and advice is PPS 1 Delivering Sustainable Development.

Regarding Appeal A (for 4 houses) the Inspector held that the scheme was deficient in a number of respects: That the layout would be sterile and unimaginative, having four similar houses, with a significant proportion of the frontage taken up by hard surfacing or garages. The houses close together at a higher level than the highway would give the impression of a solid wall of development, would appear cramped, and have an overbearing appearance on the street scene. Consequently, the Inspector concluded that the scheme fails to capitalise on the opportunity to enhance the quality of the environment.

Regarding Appeal B (for 3 houses) the Inspector concludes that the houses have a little more variety than those in Appeal A, and points out that the garages at the front of the site have been omitted. Notwithstanding this, he is of the opinion that there would be no reduction on the proportion of the site's width taken up by buildings, and any improvements resulting from the varied elevations would be offset by having wider projecting gables and by positioning the houses closer to Manor Road. The Inspector once again is of the opinion that the scheme would have an overbearing impact on the street scene and fails to capitalise on the opportunity to enhance the quality of the environment.

The Inspector concludes that the attempt to fit four large or three very large houses into such a small site would result in a development that would unacceptably dominate its surroundings.

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	Planning Board
<b>2.</b>	<b>Date:</b>	30 June 2011
<b>3.</b>	<b>Title:</b>	Relaxation of planning rules for change of use from commercial to residential: Government Consultation
<b>4.</b>	<b>Directorate:</b>	Environment & Development Services

### **5. Summary**

The Government is proposing to amend planning rules allow changes of use from commercial (B use classes) to residential use (C3 use classes) and from shops (A1) and financial and professional services (A2) to mixed use of A1 or A2 plus more than one flat without the need for planning applications. This report sets out the background to the consultation and the suggested RMBC response.

### **6. Recommendations**

- That the Planning Board notes for information the content of this report and the submission of the comments at appendix A as Rotherham's response to this Government consultation.

## 7. Proposals and Details

The Government is currently consulting on proposed changes to permitted development rights to allow further changes of use to be carried out without requiring planning permission. The consultation period ends on 30<sup>th</sup> June 2011.

Planning permission is usually required for material changes of use. Under current legislation planning permission is not required where both the existing and the proposed use fall within the same class within the Town and Country Planning (Use Classes) Order 1987 (as amended). It also provides for some limited changes of use between different use classes.

The Government is proposing to introduce changes which would:

- allow changes of use from B1 (business – offices, research and development premises and light industry), B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) to happen freely without the need for planning applications
- allow land to revert to its original B use class as long as it does so within five years of having changed as a result of this policy.
- build on the current situation whereby it is possible to convert unused space above a shop into a flat, to allow change of use from A1 (shops) and A2 (financial and professional services) to mixed use of A1 or A2 plus more than one flat

These proposals relate only to change of use. Where a development requires any additional work to the exterior of an existing building or is a new build development, a planning application will be required in the normal way. Proposals involving the following are excluded because they raise issues requiring further consideration:

- listed buildings and scheduled monuments
- safety hazard zones
- development where an environmental impact assessment is required
- development on land affected by contamination.

The Government is proposing these changes as part of its aim to support economic growth by encouraging developers to bring redundant commercial premises back into use and at the same time help tackle the need for more housing. It argues that removing the burden and costs associated planning applications should encourage developers to bring forward more proposals for housing. It is proposed that the impact of these proposals, if implemented, would be reviewed after three years.

The Government identifies the following potential benefits:

- greater freedoms will encourage the more efficient use of land and buildings through enabling more direct responses to clear price signals.
- encouraging developers to bring forward more housing proposals and make better use of buildings that are no longer needed and/or unsuitable for their original purpose.
- that B1 uses are most likely to be located in suitable locations for housing and that in many cases existing premises will lend themselves to conversion to housing without the need for extensive external works.

- that in general, the market will make sensible decisions about where land classified as B2 and B8 is and is not suitable for residential development
- reduced planning process required for local authorities, therefore there will be corresponding administration savings which could be used to provide other services

The consultation document acknowledges that there is a risk that the changes may be perceived by some as a loss of control for local authorities and their ability to consider the wider external costs and benefits of development in coming to a decision. It also identifies a number of potential impacts:

- **Impact on amenity, services and housing mix** – there is potential for the loss of important local commercial premises or, concern about the lack of local services such as doctors' surgeries or schools. These issues would not be addressed by proposals although the Government notes that they could occur through other action by the local authority or the developer on a voluntary basis.
- **Loss of commercial land and property and the impact on areas with high residential values** - the market will attach a higher value to the residential use and this could act as an incentive to owners to consider change of use of economically viable and prosperous commercial uses to residential use. The Government does however believe that re-use of previously developed sites should lead to less pressure on greenfield sites
- **Transport and parking** - removing the requirement to submit planning applications would remove any obligation to prepare travel plans and remove the opportunity for the local authority to ensure the developer addressed any transport issues the change of use brought.
- **Noise** - if the impacts were higher than the previous use there may be other routes for dealing with problems that arise, such as through environmental health legislation.
- **Site location impacts** - some B class uses (particularly B2) may have characteristics that reduce their acceptability as housing sites. There is also a possibility that replacement of industrial development with housing could create 'bad neighbour' situations for adjoining activities, leading to a call for tighter environmental or operational controls to be placed on existing surrounding activities.

As part of the consultation the Government is seeking views on potential options to address these impacts:

- **Conditions and prior approval** – attaching standard conditions to the permitted development right; either associated with a prior approval mechanism or based on self-certification by the developer.
- **Introducing a threshold** - above which the permitted development right did not apply. I.e. based on the number of dwellings being created or at the level where an Environmental Impact Assessment is required.
- **Article 4 Direction** - local planning authorities can make an Article 4 Direction, to remove the permitted development right and require planning applications for such development. The Government is minded not to apply the provisions in section 189 of the Planning Act 2008 which provide a cap on potential liability for compensation where permitted development rights are

removed, providing it was possible to design the permitted development right nationally in a manner that addressed any significant adverse impacts

- **Local development orders** - should there be very localised instances where there is a significant and unacceptable loss of commercial land, local authorities already have the ability to use **local development orders** to allow for other balancing changes in the local planning regime e.g. to allow for change of use from C to certain B use classes. The Government is seeking views on the principle of liberalisation on a national basis from C3 use (dwelling houses) to certain B use classes.

### **Proposed RMBC Response**

The Government has set out in its consultation document specific questions on which it would welcome a response. Appendix A sets out the proposed RMBC response to these questions. It has been requested that the proposed response is also considered by the Council's new Improving Places Commission. Due to the deadline for responding back to Government the proposed response has been circulated to Members on the Improving Places Commission and any comments raised will be fed back verbally at the Cabinet Member meeting.

### **8. Finance**

A number of possible financial implications may arise from implementation of these proposals:

- Possible loss of business rates;
- potential costs associated with investigating statutory nuisances;
- cost of issuing Article 4 directions, if pursued, including potential compensation not capped by Section 189 of the Planning Act 2008.
- loss of income from planning applications
- A potential need to fund improvements which may otherwise have been secured through developer agreements, for example additional road calming measures.

### **9. Risks and Uncertainties**

The impact of the proposed changes will vary in different locations, and therefore the precise implications in financial terms, as identified above, will be difficult to predict. In a worse case scenario it may lead a need to find alternative employment sites should some existing areas cumulatively change to a residential character.

### **10. Policy and Performance Agenda Implications**

The implementation of the proposal could make a positive contribution to Rotherham's Regeneration priorities by increasing housing supply:

- providing sufficient good quality homes supports the priority of Rotherham Safe
- well designed, decent affordable housing also contributes to the cross-cutting theme of Sustainable Development
- help to further encourage regeneration and renaissance of Rotherham Town Centre

However there could be negative impacts on the borough's employment land supply through the loss of viable employment premises, or through the need to provide further employment land in less sustainable locations:

- providing employment land helps meet the needs of the modern economy and supports sustainable communities through access to employment opportunities
- The need to provide further employment sites in potentially less sustainable locations, possibly including greenfield and greenbelt locations could be detrimental to Rotherham's sustainable development theme.

#### **11. Background Papers and Consultation**

- Appendix A – proposed consultation response
- Relaxation of planning rules for change of use from commercial to residential: Consultation Document:

<http://www.communities.gov.uk/publications/planningandbuilding/relaxationchangeconsultation>

The proposed response to this consultation has been prepared in consultation with Neighbourhoods and Adult Services and the Chief Executive's Office.

The proposed response is also being considered by Members of the Council's Improving Places Commission.

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## Appendix A

### Relaxation of the planning rules for change of use from business to residential: Consultation Questionnaire

#### Question A:

**Do you support the principle of the Government's proposal to grant permitted development rights to change use from B1 (business) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?**

No

#### **Please give your reasons:**

This proposal is not supported as it has the potential to undermine the plan-led system. It would effectively establish that the principle of residential use within B1 allocations is acceptable. Whilst B1 uses are considered to be compatible with residential uses, it does not follow that all B1 premises are in sustainable or suitable locations for housing. Equally B1 uses may be present within broader industrial areas. It is considered that the measures to address impacts arising from the proposal are inadequate. Any measures put in place could become more confusing and complicated than an actual planning application.

There is also a very real concern that the proposal would lead to viable employment uses being forced out as owners seek higher value land uses. There is the potential for any cumulative impact to increase the need to find and allocate sites elsewhere for employment land, potentially resulting in development in less sustainable locations.

The proposal would allow Council's no control over the standard of accommodation, amenity space, unit sizes and so on. Whilst other regulatory functions may allow consideration of some of these issues, there is potential that this could lead to lower quality housing.

#### Question B:

**Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage & distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?**

No

#### **Please give your reasons:**

This proposal is not supported as it has the potential to undermine the plan-led system. One of the key roles of the planning system is to mediate between the requirements of different land uses and to ensure that appropriate consideration and protection is given to issues of amenity and to the wider impacts of development.

This proposal would potentially remove many relevant considerations. It is considered that the measures to address impacts arising from the proposal are inadequate. Any measures put in place could become more confusing and complicated than an actual planning application.

It would effectively establish that the principle of residential use within general industrial allocations is acceptable. It is considered that excessive weight has been given to assuming that market forces will make 'appropriate' decisions regarding where changes of use to residential would be viable.

There is also a very real concern that the proposal would lead to viable employment uses being forced out as owners seek higher value land uses. There is the potential for any cumulative impact to increase the need to find and allocate sites elsewhere for employment land, potentially resulting in development in less sustainable locations.

The proposal would allow Council's no control over the standard of accommodation, amenity space, unit sizes and so on. For example warehouses on industrial estates could become residential, raising noise and air quality issues. Whilst other regulatory functions may allow consideration of some of these issues, there is potential that this could lead to lower quality housing.

There are also concerns that the proposals may in some circumstances result in Traveller sites being set up without the need for permission (for example establishing such a residential activity within a large B8 storage and distribution use).

**Question C:**

**Do you agree that these proposals should also include a provision which allows land to revert to its previous use within five years of a change?**

Yes

**Comments:**

None

**Question D:**

**Do you think it would be appropriate to extend the current permitted development rights outlined here to allow for more than one flat?**

Yes

**If so, should there be an upper limit?**

No

**Comments:**

Such proposals could contribute towards increasing residential populations in sustainable locations within town or other centres, and subsequently to improving

their vitality and viability. As such there would appear to be no reason to artificially restrict the number of units which could be created on upper floors, providing any works meet the requirement of other regulations such as building control, health and safety and so on. It is also difficult to envisage how any national restriction on upper limit could operate as each case will be different and would need to be considered on its merits.

**Question E:**

**Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals?**

Yes

**Are you aware of any further impacts that may need to be taken into account?**

Yes

**Please give details:**

Whilst the main issues have been identified, it is not considered that they have been given the appropriate level of consideration, nor that the very real impacts have been given appropriate weight.

For example, it is noted that issues usually addressed via any planning application, such as affordable housing, would not be considered and there would be no obligation on developers to address these. It is naïve to believe that such issues would be addressed voluntarily by developers, or that local authorities will have sufficient time and resources to address any issues arising itself.

Whilst few existing premises are likely to be suitable for conversion to residential use without external works, it is considered that insufficient weight has been given to the potential impact on viable businesses (displaced to make way for higher value uses) or to the potential cumulative impact on employment land supply. It is concerning that this potential displacement could be considered 'an efficient outcome' when it could mean a need to consider the allocation of land to accommodate them; such sites may be less desirable – for example on greenfield sites or in Green Belt locations.

It is not considered that the impacts upon amenity have been appropriately considered. It could lead to the development of housing in areas of lower environmental quality uncontrolled by planning conditions, and equally impact upon the operation and amenity of adjoining employment uses. Where pockets of residential use arise in or adjoining existing employment areas allocated for such uses, it may be detrimental to the local economy if businesses are limited in their activity due to the presence of housing. Within the plan led system, where policies clearly set out appropriate uses within certain locations, existing occupiers may feel that their operations could be undermined in the future.

There is concern that the consultation underestimates the effectiveness of other regulatory controls.

**Question F:**

**Do you think that there is a requirement for mitigation of potential adverse impacts arising from these proposals and for which potential mitigations do you think the potential benefits are likely to exceed the potential costs?**

Yes

**Comments:**

If implemented, these proposals would most certainly need mitigation measures to be introduced. However it is considered that the approaches suggested are all far less effective than the present planning application requirements, and that the overall benefit from the proposal is unlikely to outweigh the costs in terms of reduced ability to address issues at a local level.

**Question G:**

**Can you identify any further mitigation options that could be used?**

None

**Question H:**

**How, if at all, do you think any of the mitigation options could best be deployed?**

The use of conditions is appropriate; however would any standard set of conditions be introduced at a national level? If so then this 'broad brush' approach is unlikely to ensure that the impacts of development respond to the local circumstances of each case. A more appropriate approach would be for conditions to be considered at local level, as per current arrangements in respect of planning applications.

Should this approach be taken forward then a prior approval approach would be a far more transparent mechanism than relying on the self certification of developers.

A threshold approach would also be supported.

**Question I:**

**What is your view on whether the reduced compensation provisions associated with the use of article 4 directions contained within section 189 of the Planning Act 2008 should or should not be applied? Please give your reasons:**

It is not considered appropriate that the Government should remove the provisions of section 189 of the Planning Act 2008 should Article 4 directions be introduced. The consultation notes that this action would be conditional on any permitted

development rights addressing significant adverse impacts. On the evidence presented it is not considered that the mitigation measures proposed would allow adverse impacts to be appropriately addressed as they generally remove the detailed consideration of issues arising from development at a local level. Mitigation introduced at a national level is unlikely to be detailed enough to allow appropriate consideration of issues at a local level, or alternatively result in excessive 'catch all' measures which would outweigh the benefits likely to arise in terms of housing numbers.

**Question J:**

**Do you consider there is any justification for considering a national policy to allow change of use from C to certain B use classes?**

No

**Please give your reasons:**

It is considered that this would further undermine the plan led system and lead to less local influence upon the appropriateness of uses in different locations. Along with the proposal to allow change from B uses to C uses, this would appear to undermine the Governments moves towards localism.

**Question K:**

**Are there any further comments or suggestions you wish to make?**

Broadly the principle of allowing permitted change of B uses to housing is not supported as it is considered that it undermines the plan led system, does not appropriately allow for mitigation of issues arising from such a move, and appears to be against the spirit of localism. Local people and neighbours would have no say on the change of use, which is contrary to the messages emerging from the Localism Bill.

There is a concern that it will lead to pockets of housing in inappropriate locations and with lower environmental conditions, potentially detrimental to those at the lower end of the housing market. The consultation fundamentally misses the point that many of those on a lower income have no real choice to rent sub standard accommodation. The free market may prevent home owners moving to unacceptable housing, but the low income private renters may have no option.

Whilst the consultation is reasonably explicit in stating that the intention is to 'make better use of buildings that are no longer needed and/or unsuitable for their original purpose' this not addressed by any of the mitigation measures proposed; indeed the proposal would leave the door open for existing suitable, viable employment premises to be changed to residential use in pursuit of higher land values. Establishing this principle appears to be detrimental to providing stability and certainty for developers and for existing businesses.

## The impact assessment questions

### **Question 1:**

**Do you think that the impact assessment broadly captures the types and levels of costs and benefits associated with the policy options?**

No

### **If not why?**

It is considered that insufficient consideration has been given to the impact on BME communities, those with lower employment skills and other disadvantaged groups. The potential for developments to create housing in lower quality environments may result in properties most attractive to those less affluent within our communities or who have less choice in the housing market. There is potential for this to lead to an over representation of such groups in particular areas – this does not encourage community integration/cohesion.

The proposal could potentially impact upon the supply of employment land – either reducing availability or potentially requiring alternative provision in less sustainable locations. This lack of appropriate or sustainable employment land supply could have a disproportionate impact on BME and low skilled employment rates, which are double compared to the indigenous population.

### **Question 2:**

**Are there any significant costs and benefits that we've omitted?**

Yes

**If so, please describe including the groups in society affected and your view on the extent of the impact:**

See question 1

### **Question 3:**

**Are the key assumptions used in the analysis in the impact assessment realistic?**

No comment

**If not, what do you think would be more appropriate and do you have any evidence to support your view?**

### **Question 4:**

**Are there any significant risks or unintended consequences we have not identified?**

No comment

**If so please describe:**

**Question 5:**

**Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options?**

No

**If not, why not?**

See response to question 1

**Question 6:**

**Do you think there are any groups disproportionately affected?**

Yes

**If so please give details:**

See question 1

**Question 7:**

**Do you think this proposal will have any impacts, either positive or negative, in relation to any of the following characteristics – Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion or belief, Sex, Sexual Orientation and Age?**

Yes

**Please explain what the impact is and provide details of any evidence of the impact:**

See question 1

**Question 8:**

**Do you have any information on the current level of planning applications for change of use from B use classes to C3 in your local authority area which might be helpful in establishing a baseline against which to measure the impact of this policy?**

Since 2006 there have been three applications within Rotherham which explicitly refer in their proposal descriptions to a change of use from B1 offices to residential use.