

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

Thursday, 24 November 2011

Start Time 9.00 a.m.

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

AGENDA

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Declarations of Interest (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 3rd November, 2011 (herewith) (Pages 3 - 6)
5. Deferments/Site Visits (information attached) (Pages 7 - 8)
6. Development Proposals (report herewith) (Pages 9 - 148)
7. Report of the Director of Planning and Regeneration Service (herewith) (Pages 149 - 162)
8. 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:-

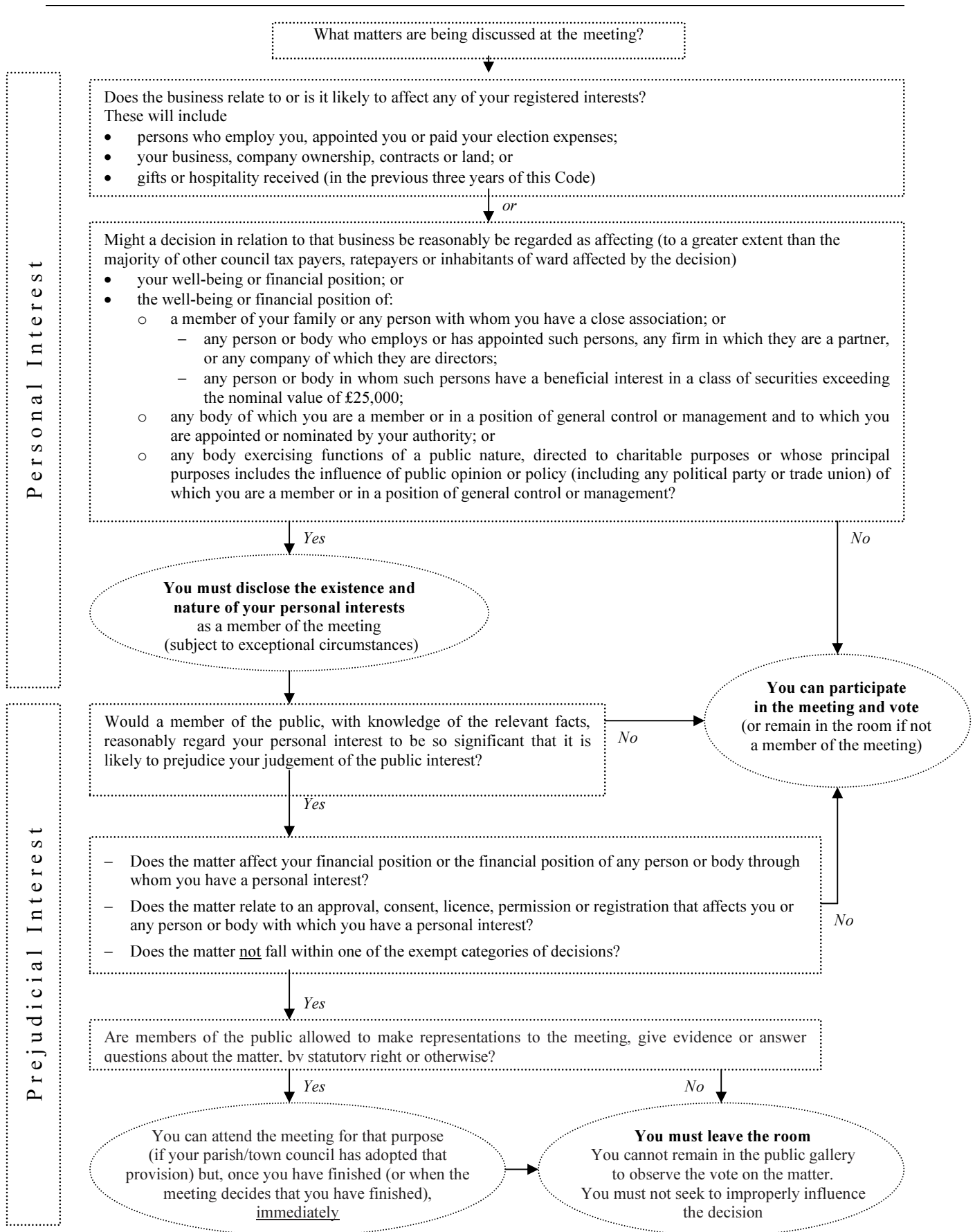
(Please continue overleaf if necessary)

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
3rd November, 2011**

Present:- Councillor Pickering (in the Chair); Councillors Atkin, Dodson, Kaye, Parker, Roddison, G. A. Russell, Sims, Walker and Whysall.

Apologies for absence were received from Councillors License, Pitchley, Smith and Tweed.

T62. DECLARATIONS OF INTEREST

There were no Declarations of Interest reported.

**T63. MINUTES OF THE MEETING OF THE PLANNING REGULATORY BOARD
HELD ON 13TH OCTOBER, 2011**

Resolved:- That the minutes of the meeting of the Planning Regulatory Board held on 13th October, 2011, be approved as a correct record for signature by the Chairman.

T64. DEFERMENTS/SITE VISITS

There were no deferment or site visits requested.

T65. DEVELOPMENT PROPOSALS

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

(2) That applications RB2011/1166, RB2011/1313 and RB2011/1338 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the report.

(3) That application RB2011/1256 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the report and subject to two further conditions relating to remediation works and contamination of the site.

**(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING ITEM IN ORDER
TO PROGRESS THE MATTERS REFERRED TO.)****T66. OUTLINE APPLICATION FOR THE ERECTION OF 44,700SQ.M OF
INDUSTRIAL FLOORSPEACE INCLUDING ANCILLARY OFFICES, ASSOCIATED
GROUND WORKS AND DETAILS OF ACCESS INCLUDING FORMATION OF
NEW ACCESS TO DEVELOPMENT PLOTS AT LAND AT THE AMP, OFF
WHITTLE WAY AND BRUNEL WAY, CATCLIFFE FOR ROLLS ROYCE
(RB2011/1136)**

Further to Minute No. 56(2) of the meeting of the Planning Board held on 13th October, 2011, consideration was given to the request to amend the wording of the conditions following discussions with Rolls Royce are which principally relate to the insertion of a threshold for the implementation of off site highway works.

Originally the works were required prior to the occupation of the first building. However, following a review of the Transport Statement and interrogation of the TRICS database the Council and the Highways Agency were satisfied that the trip rates were significantly less than those used when considering the previous AMP application (RB2003/0046). This being the case, the Council accepted the conclusions outlined in the Transport Statement and subsequent Briefing Note that a higher trigger point was reasonable and would not have a detrimental impact on the local highway network.

Resolved:- That the following conditions replace the two previously approved:-

14

Not more than 47,480sq.m of gross floor area within AMP 2 shall be occupied until the provision of proposed improvements, or similar to Highfield Spring as indicated in draft form on plans reference SK-J1-M1 Rev P2 and SK-J4-M1 Rev P2 have been implemented in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of the free and safe flow of traffic in the highway.

15

Not more than 47,480sq.m of gross floor area within AMP 2 shall be occupied until the provision of proposed improvements to Poplar Way and the Big W roundabout (but not including works to the roundabout and slip roads of the Catcliffe junction) as indicated in draft form in plans reference Nos. SK-J2/3-M1 Rev P2 and SK-J1-M1 Rev P2 but in the form of a dual carriageway, have been implemented in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of the free and safe flow of traffic in the highway.

T67. APPEAL DECISION - AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF 2 NO. STEEL SEGMENTAL ARCH BUILDINGS FOR USE AS WORKSHOPS AND STORAGE AT LAND ADJACENT TO THE FORMER TURNERS ARMS PUBLIC HOUSE, PSALTERS LANE, HOLMES (RB2011/0152)

Consideration was given to a report by the Director of Planning and Regeneration Services which detailed an appeal against the refusal of planning permission for the erection of 2 No. steel segmental arch buildings for use as workshops and storage at land adjacent to the former Turners Arms Public House, Psalters Lane, Holmes.

The Inspector dealing with the appeal noted that the appeal site was a vacant plot at the edge of an industrial area and that it was immediately adjacent to a former pub which had been converted into office space with flats above.

The Inspector stated that there was no dispute that the site was appropriate in principle for the location of industrial or business buildings and that the proposed use would be in character with the area.

The Inspector indicated that the two buildings proposed would be “of plain design with a rectangular floor plan, roller shutter doors taking up most of the front elevation and personnel doors at either end. They would also have deep, arched roofs giving them an almost semi-circular profile.” The Inspector concludes that “this form would be out of keeping not only with other industrial buildings in the area...but also with the dwellings opposite and the former pub building next door.” In the Inspector’s view “the ribbed, galvanised steel panels would not be uncharacteristic except that they would be used for the whole construction, unrelieved by a contrasting walling material...”

The Inspector further stated that the site being located at a junction, adjacent to Psalters Lane which was fairly busy, and opposite a significant number of dwellings, the site was in a prominent position where development upon it would be clearly visible.

The Inspector also states: “Overall, the form and construction of the proposed buildings would result in them being incongruous and harmfully obtrusive elements in the surrounding area.”

The Inspector, therefore, concluded that in failing to make a positive contribution to the environment or achieve an appropriate standard of design with regard to architectural style and relationship to the locality the development proposed would not comply with Policy ENV3.1 of Rotherham Unitary Development Plan.

The Inspector in assessing the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise, states “It is possible that the row of trees in front of neighbouring flats would be sufficient to mitigate noise generated from the various uses that might take place within or around the proposed buildings.”

The Inspector also noted that no noise survey had been submitted and without further information on this it was not possible to fully assess the proposal. He did note that noise would have previously occurred at the public house and at times more likely to annoy than the working house proposed here. Nevertheless, the Inspector stated that, as it stood, the proposed scheme would be contrary to UDP policy ENV3.7 which would not grant planning permission for new development which was likely to give rise to noise beyond acceptable standards.

The Inspector finally stated that the appeal site was currently not fully used and in a somewhat untidy condition. To develop it for industrial use would improve its appearance and otherwise help to safeguard the viability of the wider area in line with UDP Policy EC1.1.

The Inspector concluded that neither this benefit, nor any of the other matters raised, were sufficient to outweigh the harm the proposed development would cause to the appearance of the surrounding area or, potentially, to the living conditions of neighbouring occupiers.

In light of the above the Inspector concluded that the appeal should be dismissed.

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

T68. UPDATES

The following update information was provided:-

(a) Courtesy Consultation Procedure

The Planning Board referred to Rotherham's Courtesy Consultation Procedure and the current position regarding major applications that may impact on neighbouring authorities.

An example of such a major development was the wind farm at Marr in Doncaster which, due to its location, could be viewed by many in Rotherham.

Further information was also requested on the height comparisons between the wind farms in Marr and Ulley.

Resolved:- (1) That a report setting out Rotherham's Courtesy Consultation Procedure be submitted to the next meeting.

(2) That further information be provided on the turbine comparisons between the developments in Marr and Ulley.

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
24 NOVEMBER, 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.

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RB2011/1218 Continuation of use of class A1 non-food premises & garden centre & car park with removal of condition 3 (no retail sales of food) imposed by R83/1679P at former B & Q, Tenter Street, Thornhill for Oakgate (Rotherham) LLP.	Page 29
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RB2011/1296 Continuation of outline application with all matters reserved except for the means of access for a new community comprising residential (3890 units) commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, cultural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting) with variation to Conditions 5, 6, 17, 18, 29 (imposed by RB2008/1372) at UK Coal Mining (UK) Ltd., Orgreave Road, Catcliffe for Harworth Estates (Waverley Prince Ltd).	Page 67
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**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
24 NOVEMBER, 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.

RB2011/1084

Change of use to a car park and the erection of lighting and CCTV columns at land at Sheffield Road, Rotherham Town Centre.

RECOMMENDATION: Granted 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:

Local Planning Policy

EC5 Mixed Use Area – within mixed use areas shown on the proposals map, a variety of land uses will be acceptable: The acceptable uses are listed as A1, A2, A3, B1, B2, B8, D1, D2.

ENV2 Conserving the Environment

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

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

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

ENV3.2 Minimising the Impact of Development In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek

to minimise adverse impact on the environment, including water resources, and to conserve and improve its quality. It will permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so.

Other Material Considerations

The Design Code for the Rotherham Town Centre River Corridor.

The Conservation of Habitats and Species Regulations 2010

For the following reasons:

The application site is located within a mixed use area that is characterised by uses that are commercial in nature. The application site is located to the rear of an existing surface car park and a caravan sales plot, with the River Don at a lower level to the west. The proposal includes mitigation measures to ensure that any foraging bats in the adjoining river corridor are not adversely impacted by the proposed lighting for the car park, this includes shielding of the lights and time restrictions, as well as the continuation of boundary planting. Due to proposed mitigation measures within the application the proposed development is considered to be in accordance with the Conservation of Habitats and Species Regulations 2010 and UDP policy ENV2.

The proposal is not considered to have any significant adverse impact on the locality or the environment. It is therefore considered that the proposal is in compliance with Policies EC5, ENV3.1 and ENV3.2 of the UDP. Whilst the proposal is not in accordance with the Rotherham Design Code, the site is within the Council's ownership and so any future masterplanning would not be prejudiced by this development.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. 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.

Reason

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

02

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

Reason

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

03

The development hereby permitted shall be implemented in accordance with the details contained within the Flood Risk Assessment dated 30th September 2011.

Reason

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

04

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

Reason

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

05

The development shall not be brought into use until the proposed road markings at the site access indicated on plan reference 126/RS/SK/PCA01 have been implemented.

Reason

In the interest of road safety.

06

There shall be a maximum of two 12m high lighting columns each incorporating 3no. 250 watt high pressure sodium lamps positioned in the location given on the approved site plan.

Reason

In the interests of local amenity

07

Prior to the development being brought into use details of how the lighting will be shielded and a light spill diagram shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

Reason

In the interests of local amenity and biodiversity

08

The lighting hereby permitted shall only be used between 06:30 and 19:00 hours on any day.

Reason

In the interests of local amenity and biodiversity

09

Within 6 months of the development being brought into use a landscape scheme along the boundary with the river between points A and B shall be submitted along with a timetable for its implementation to the Local Planning Authority. The approved planting scheme shall be implemented in accordance with the approved timetable.

Reason

In the interests of local amenity and biodiversity

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.

Reason

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

Informatives

British Waterways

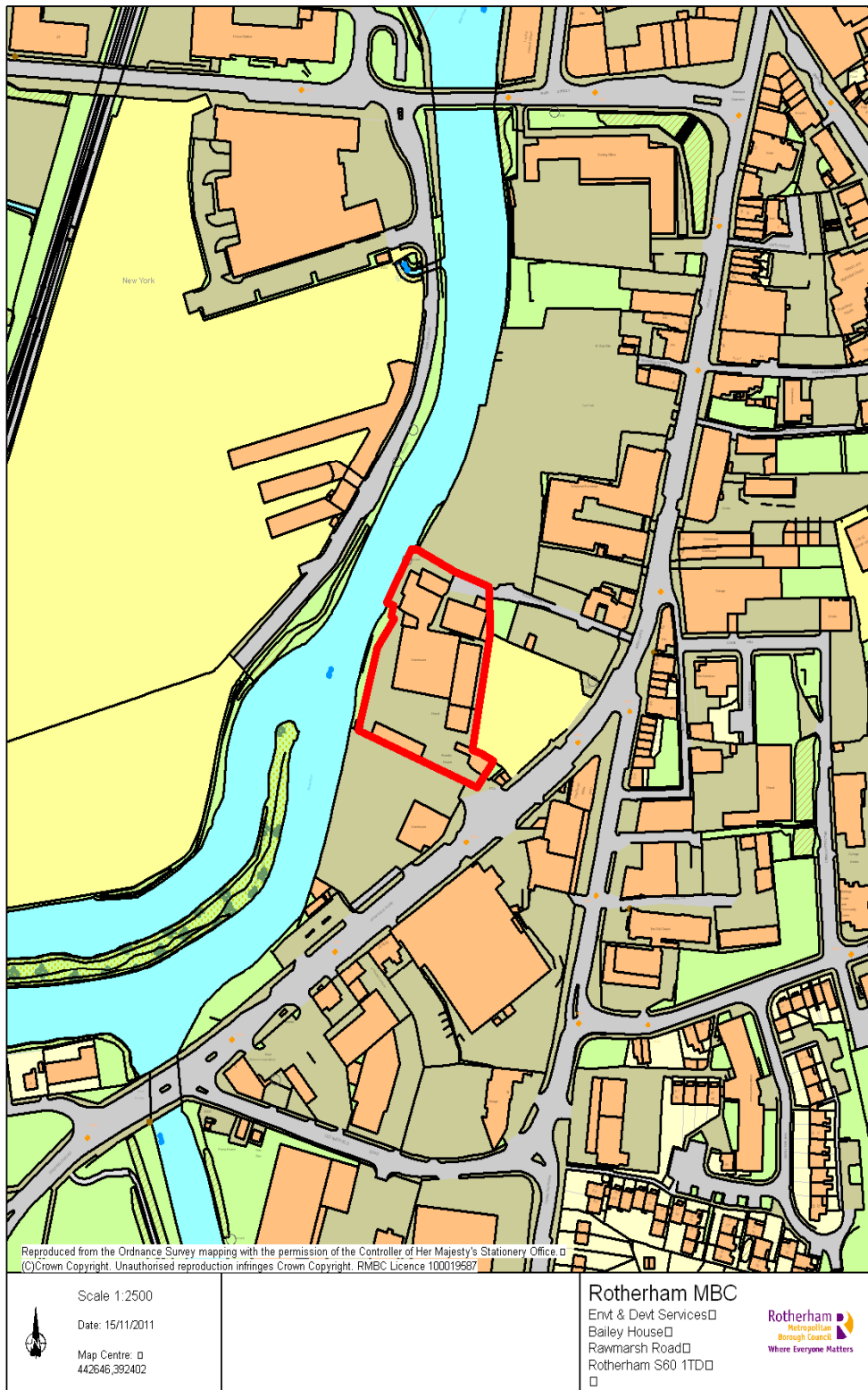
The applicant/developer is advised to contact third party works engineer, Alan Daines (0113 200 5713) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways

Environment Agency

The River Rother is a main River and therefore the Water Resources Act 1991 and the Yorkshire Land Drainage Byelaws 1980 will both apply. These state that there shall be no development in, over, under or within 8 metres of the bank top, or the landward toe of a flood defence, without the prior written consent of the Agency.

Environmental Health

The lamps shall be shielded so as to prevent glare and light trespass beyond the site boundary as per the guidance provided by the Institute of Lighting Engineers in their document "Guidance Notes for the Reduction of Light Pollution".



Background

There have been numerous planning applications relating to previous uses of the site as a foundry and warehouse, however the site has now been cleared of these buildings. Other applications include -

RB2004/0697 Outline application for the erection of a 7,897sqm food and non food superstore (Use Class A1), two 465sqm restaurants (Use Class A3), residential development and a petrol filling station was refused in August 2001 and a subsequent appeal was dismissed in June 2007.

RB2008/1245 Application to determine whether prior approval is required of the method of demolition and restoration of the site was approved in August 2008.

Environmental Impact Assessment

The proposed development falls within the description contained at paragraph 10 (b) of Schedule 2 to the 1999 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Borough Council as the relevant 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 authority has adopted the opinion that the development for which planning permission is sought is not EIA development as defined in the 1999 Regulations.

Site Description & Location

The application site is located approximately 400m south of the junction of Westgate and Main Street to the west of Sheffield Road, and is located behind an existing public car park and a caravan sales pitch. The site is just over 0.5 hectares in size. It is located to the east of the River Don, which is at a lower level. There are trees along the western boundary of the site with the river. The site is currently hard surfaced and accessed from Sheffield Road to the south of the existing car park.

Proposal

The application has been submitted by Rotherham Metropolitan Borough Council and permission is sought to change the use of the site from a former cleared warehouse site to be used as a car park. The car parking spaces will not be marked out on the site, and the car park will be available for users approximately between the hours of 06:30 and 19:00.

The application also includes details of the siting of two 12 m high columns, each column is proposed to hold 3 no 250 watt high pressure sodium lamps. The submitted information states that the glare of the lights will be kept to a minimum and within the boundary limits of the car park. The lighting columns will also be used for the siting of CCTV cameras.

The Transport Statement states that the car park would accommodate approximately 120 -150 cars. The application states that the car park use will be limited to Council Employees who are holders of parking permits and will not be open to the general public. The Transport Statement concludes that the anticipated traffic likely to be generated by the car park can be safely accommodated within the local highway network and would not result in a material adverse impact.

A Flood Risk Assessment, and a lighting and CCTV assessment were submitted with the application

Development Plan Allocation and Policy

Local Planning Policy

EC5 Mixed Use Area – within mixed use areas shown on the proposals map, a variety of land uses will be acceptable: The acceptable uses are listed as A1, A2, A3, B1, B2, B8, D1, D2.

ENV2 Conserving the Environment

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

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

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

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

Other Material Considerations

The Design Code for the Rotherham Town Centre River Corridor is an adopted Interim Planning Statement. The Code is a set of specific rules or requirements to guide the physical development of a site or place. The Code seeks to implement the Masterplan

for the Town Centre River Corridor centred on Westgate just south of the historic core of Rotherham

The Conservation of Habitats and Species Regulations 2010

Publicity

The application was advertised on site and the occupiers of nearby properties were consulted by letter. No representations have been received.

Consultations

Transportation Unit –No objections it is noted that the proposed car park will be utilised by Council employees (permit holders) and is intended to supplement the measures included in the travel plan for Riverside House. In this respect it is accepted that the additional vehicular traffic likely to be generated can be safely and conveniently accommodated within the existing highway network.

British Waterways – No objections

Environment Agency – No objections

Police Architectural Liaison Officer – No objections

Ecology – Bat foraging along the river/canal corridor is a key receptor and the lighting of the car park is the key impact. The Bat Conservation Trust guidance on bats advises that if possible low pressure sodium lamps should be used. The lighting columns should be cowled or hooded to prevent light spillage upwards. With the existing vegetation and the mitigation measures recommended above there should be no impact on foraging bats.

Environmental Health – No objections. The lighting columns are approximately 90m from Dusties Lodge Canklow Road and approximately 70m from the Light House Westgate. In light of this it is recommended that the lights should be shielded to prevent glare and light trespass beyond the boundary of the application site.

SYLTE – The site is within a sustainable area, and the proposal would not support sustainable travel into the town.

Streetpride Drainage – No objections subject to the implementation of the Flood Risk Assessment.

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 issues to be considered are:-

- The principle of the development
- Transportation issues
- Impact on the environment

The principle of development

The application site is allocated for mixed uses within the adopted Rotherham Unitary Development Plan. The proposed use as a car park is a sui generis use, and is therefore not listed within the acceptable uses listed within EC5 Mixed Use Areas. However the site is in an area that is generally commercial in nature with other similar uses nearby. This planning application is for an additional car park for the newly built Riverside House, for employees with car parking permits to use. The proposal is considered to be in keeping with the surrounding uses as it is a complimentary type of use within the area. It is therefore considered that the proposed use is acceptable, and is in compliance with Policy EC5.

The application is within the area of the Design Code for the Rotherham Town Centre River Corridor which is a material consideration to be taken into account when determining this planning application. The Code is a set of specific rules or requirements to guide the physical development of a site or place. The Code seeks to implement the Masterplan for the Town Centre River Corridor centred on Westgate just south of the historic core of Rotherham. The Code shows the application site to be developed as a marina as part of the overall development. This application is not in accordance with the Design Code, however as the proposal does not include any built development, and there are no committed proposals to implement the Design Code Masterplan for this area it is considered that the proposal is acceptable. Some other uses in the area have been granted temporary planning permissions only, however the application site is owned by the Council, and in Council control and so the granting of a full planning permission would not prejudice the future aspirations of the area.

Transportation issues

The SYPTE have concerns that the proposal would not support sustainable travel into the town centre, however the car park is one of the proposed measures to accommodate Council employees parking requirements when the majority of town centre staff move their office headquarters to Riverside House, and is intended to supplement sustainable travel measures in the Travel Plan for the building. The proposal is therefore considered to be acceptable in transportation terms.

Impact on the environment

The application site is bounded to the west by the River Don, and there are trees and other vegetation along the boundary. The lighting columns are shown to be located to the northeast and south west of the site and will be 12m in height with 3 high pressure sodium lights on each column. It has been noted that the river corridor beyond the application site boundary could support foraging bats.

It is noted that there is existing vegetation along the majority of the boundary with the river and the provision of sodium lighting is preferable to other lighting sources. Whilst

there is vegetation on part of the boundary, it is considered that the remainder of the site boundary should be planted to provide screening along the length of the boundary with the river. However to mitigate the impacts on the potential foraging bats a condition should be attached to any permission to ensure that the lights are shielded and that there is no light spillage beyond the site boundary. Additionally, as the car park will only be open for use between 06:30 hrs and 19:00 hrs a condition should be attached to ensure that the lights are only switched on between these hours.

UDP policy ENV2 Conserving the Environment aims to ensure that any effects on the environment are considered through the process of the application and any effects are mitigated and compensated for. It is necessary to assess whether the proposed development would have a detrimental impact on bats which are a European Protected Species, and as such the Local Planning Authority has a statutory duty under Regulation 3 (4) to have regard to the Habitats Directive.

The proposed development site itself has already been cleared some time ago and it is beyond the application site within the river corridor that foraging bats may be present. Due to the proposed mitigation measures within the application the proposed development is considered to be in accordance with the Conservation of Habitats and Species Regulations 2010 and UDP policy ENV2.

A flood Risk Assessment was submitted with the application, and it is considered that the proposed mitigation measures are appropriate to deal with drainage matters at the site. In this regard it is considered that the proposal is in accordance with policy ENV3.2 of the UDP.

The two 12m high columns to be used for lighting are also to be used for the provision of CCTV cameras. The provision of these will ensure that the development is secure for future users. The proposal is not considered to have any adverse impact on the environment and is therefore in compliance with policy ENV3.1 of the UDP.

Conclusion

The application site is located within a mixed use area that is characterised by uses that are commercial in nature. The application site is located to the rear of an existing surface car park and a caravan sales plot, with the River Don at a lower level to the west. The proposal includes mitigation measures to ensure that any foraging bats in the adjoining river corridor are not adversely impacted by the proposed lighting in the car park, this includes shielding of the lights and time restrictions and the continuation of boundary planting. Additionally these mitigation measures would also protect general local amenity from any light pollution.

Due to the proposed mitigation measures within the application, the proposed development is considered to be in accordance with the Conservation of Habitats and Species Regulations 2010 and UDP policy ENV2.

The proposal is not considered to have any significant adverse impacts on the locality, the environment or highway safety. It is therefore considered that the proposal is in compliance with Policies EC5, ENV3.1 and ENV3.2 of the UDP. Whilst the proposal is not in accordance with the Rotherham Design Code, it is considered that as the site is within the Council's ownership any future masterplanning would not be prejudiced.

It is therefore recommended that planning permission be granted.

RB2011/1193

Proposed extensions and alterations at the Bluebell Public House, Worksop Road, Aston.

RECOMMENDATION: REFUSE

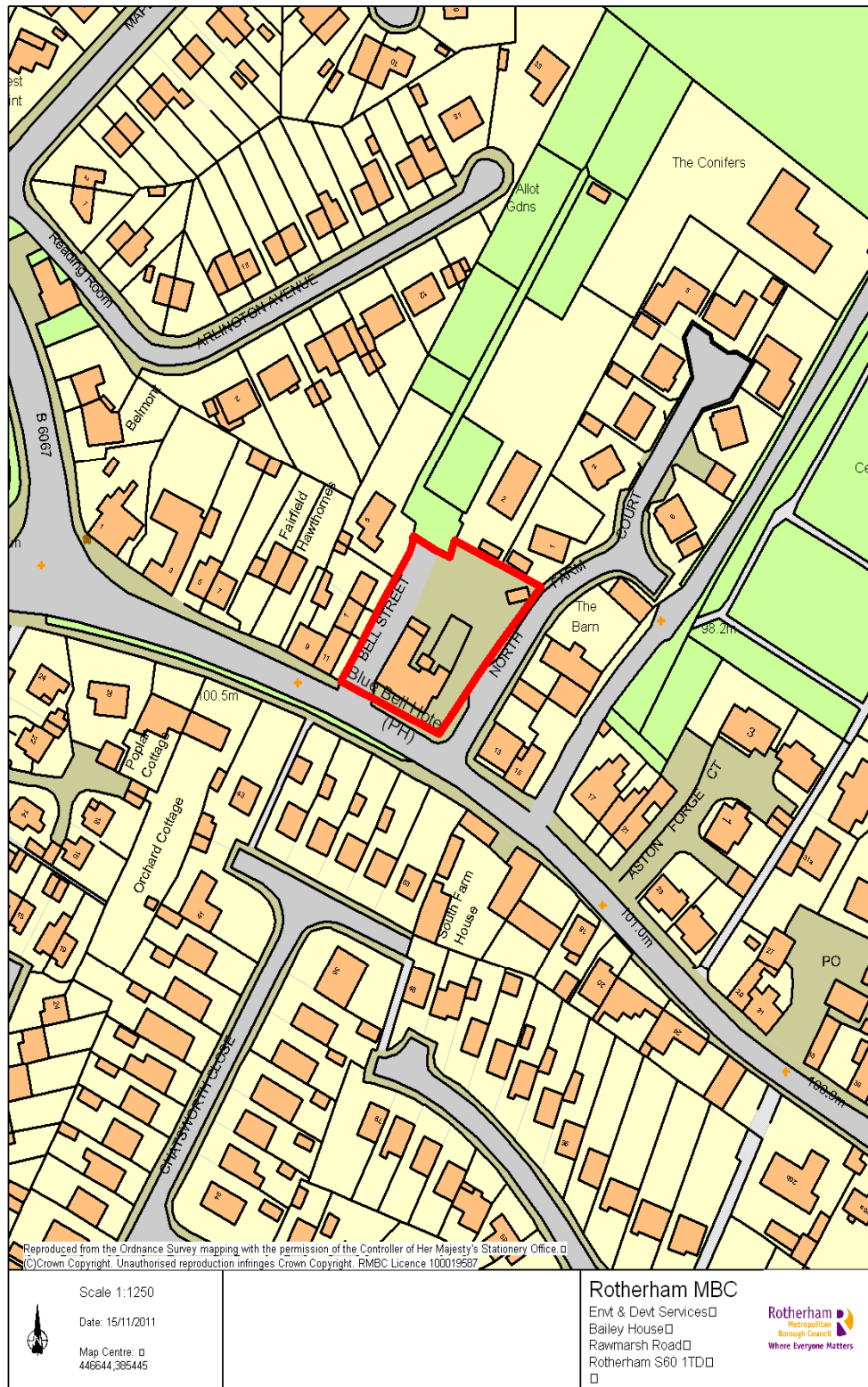
REASON FOR REFUSAL

1.

It is considered that the proposals would have a materially adverse impact on the residential amenities of the adjoining occupiers by way of noise and general disturbance, particularly during the late hours of the evening, as well as unacceptable levels of overlooking. The proposals are therefore in conflict with Policies HG1 'Existing Housing Areas' and ENV3.7 Control of Pollution of the Unitary Development Plan.

2.

It is further considered that the proposals would by way of their scale and design have an adverse impact on the character of the Conservation Area in conflict with Policies ENV2.11 Development in Conservation Areas, and ENV3.1 Development and the Environment of the Unitary Development Plan, as well as guidance in PPS5 'Planning for the Historic Environment'.



Background

The site is a long established pubic house which has been the subject of a number of applications in the past, the most recent being;

RB1986/0415 Extensions and alterations. Permission was granted conditionally in June 1986

RB1987/1714 Use of land for additional car parking. Permission was granted conditionally in February 1988.

RB1990/1578 Extension to form additional toilet accommodation, granted conditionally in November 1990.

Site Description & Location

The site of application is a large two storey public house with accommodation in the roof space. The premises comprise the main drinking area at ground floor level with letting areas including a function room at first floor level and the management accommodation in the roof space. The building fronts Worksop Road and has a small hard surfaced area used as an external drink/smoking area. There are accesses either side of the building which serve an existing car park to the rear of the premises, and existing residential development immediately to the north east, and north west of the car parking on Bell Street. To the north east and south east of the site are further residential properties on North Farm Court, whilst across Worksop Road to the south west is further residential accommodation.

Proposal

The application is for rationalisation of the existing ground floor by opening up the internal floor space area and adding a flat roofed kitchen extension measuring approximately 24 sq m to be located at the rear of the building. Also at ground floor level would be an outside dining area, comprising an "L" shaped decking area of approximately 70 sq m, raised approximately 1m above ground level and enclosed by a 1.1m high glass screen, and planting strip. There is no sitting out area currently at the rear of the Public House and the proposed decked area will result in the loss of three car parking spaces. A modified fire escape would serve first and second floor accommodation at the rear. The parking area would be reduced overall by 2 spaces from 25 to 23.

Development Plan Allocation and Policy

The site is allocated for Residential purposes in the UDP and is within the Aston Conservation Area and the following Policies are considered to be relevant:

Policy HG1 Existing Housing Areas:

"The Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which:-

(i) have no adverse effect on the character of the area or on residential amenity,

- (ii) are in keeping with the character of the area in terms of scale, layout and intensity of use,
- (iii) make adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development, or
- (iv) are ancillary to the residential nature and function of the area and which also satisfy the above requirements.”

Policy ENV2.11 Development in Conservation Areas:

“In respect of designated Conservation Areas, the Council:

- (i) will not permit development (including changes-of-use, alterations and advertisement display), demolition and work to trees which would adversely affect their architectural or historic character or visual amenity, except that very limited exceptions to this policy may be accepted when compelling justification exists,
- (ii) will not grant consent to demolish buildings which make a positive contribution to them unless every possible 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,
- (iii) will not grant planning permission on the basis of outline applications unless, having considered such details of the proposal as may have been required to be submitted, it is satisfied that the impact of the proposal on their character can be properly assessed on that basis,
- (iv) will have regard to the degree to which proposals are compatible with their vernacular style, materials, scale, fenestration or other matters relevant to the preservation or enhancement of their character.”

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 relevant material planning considerations

Planning Policy Statement 5 ‘Planning for the Historic Environment’ states that in determining planning applications Local Authorities should have regard for the value of any historic asset and its setting.

Publicity

The application was advertised on site and in the local press, and adjoining occupiers notified. 29 letters of representation have been received, including one from Aston-cum-Aughton Parish Council. 27 of the representations object to the proposals. Ten of the objectors point out that they have no objections to the principle of renovating the premises, but have grave concerns regarding the outside dining/decking areas at ground and first floor levels. Points raised are:

- (i) Anti social behaviour.
- (ii) Loss of car parking.
- (iii) Overlooking.
- (iv) Noise.
- (v) Drug abuse.
- (vi) Litter.
- (vii) Noise from cars being driven around the parking area.

One letter is in support subject to appropriate management of the premises to alleviate problems of anti social behaviour experienced in the past.

Aston-cum-Aughton Parish Council support the principle of the development but recommend that CCTV be installed to monitor and control the outside areas. The Parish Council have also requested a site visit prior to a decision being made.

One objector has requested the Right to Speak at the Meeting.

Consultations

Transportation Unit: Notes from the submitted details that the proposed extension involves some 24 sqm of additional A4 use and a reduction in the number of car parking spaces by 2. Worksoop Road fronting the site is subject to waiting restrictions and is a bus route. In these circumstances, the Transportation Unit is of the opinion that the proposal, if implemented, will result in little, if any, adverse impact in a highway context and has no objections to the proposal from a highway/transportation aspect.

Director of Housing and Neighbourhoods (Environmental Health):

Notes that the main concerns are that this is a predominately residential area with residential properties close by surrounding it and also directly behind the site. The residential homes likely to be affected are on Bell Street, North Farm Court, and

Workshop Road. The objections from local residents primarily relate to concerns over noise, litter, problems with parking, lack of privacy, threat to security and anti-social behaviour. Many raise concerns about the exterior decking area allowing the congregation of people which will increase the likelihood of noise. The residents have concerns that there have been incidents of fighting and drunken behaviour in the past and the introduction of the exterior decking will cause these problems to recur.

Environmental Health and the Council's Licensing Department have had several complaints about noise in the past in relation to these premises. The latest complaint was in April 2011 which was in relation to amplified music. Complaints were also received in August 2009 (loud music), June 2007 (noise), October 2007 (noise from customers drinking and smoking outside), along with several complaints in 2006 in relation to anti-social behaviour and youths drinking outside.

Environmental Health consider that due to the neighbouring residential properties there is potential for disamenity from noise from people talking while drinking or eating on the decking area. It is also concerned that any music played in the premises will not be adequately controlled if people are exiting the main exit door on a regular basis. The noise is likely to be from people congregating on the rear external decking area and from people talking, shouting, music and associated noise. Environmental Health note that the noise is likely to be detrimental to the amenity of the neighbourhood and particularly affect the enjoyment of the gardens in the summer months for those living in close proximity to the Public House. It is considered that controlling the development at this stage is advantageous. Environmental Health can only take action against noise nuisance in which a substantial level of noise has to be proved and once businesses have been allowed to develop they have the defence against any legal notice that they have used the best practicable means to abate it.

Regarding the submitted plans which include the following:-

- 1) The planting of shrubs. While this may help to screen the area and improve the privacy to the neighbouring houses it will not provide any effective sound attenuation.
- 2) A glass and steel balustrade to enclose the terrace. The plans state that this will "help absorb noise and mask the terrace." It is shown to be 1.1m high which will not be above the head height of those people sitting on the terrace. This screening will be of limited benefit and will not effectively contain the noise from the premises due to its low height and the type of construction of the screen.

In view of the above the Environmental Health Service recommends that the application be refused.

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 of application is allocated for residential purposes and within the Aston Conservation Area on the Unitary Development Plan. The premises are a long established purpose built public house and consequently the principle of the development is not an issue.

The main considerations are:

1. The effect on the amenities of adjoining residents.
2. The effect on the character of the area.
3. Other comments raised by objectors.

1. The effect on the amenities of adjoining residents:

The proposed development would result in the construction of a large sitting out /dining area at the rear of the existing public house, which would be in proximity to existing residential properties, located to the rear and side of the building. Currently the principal openings to the premises are at the front of the building, as is the existing sitting out area and smoking area, away from the residential properties at the rear. The proposals would create two potential sources of disamenity, noise and overlooking in proximity to existing houses which currently are not directly overlooked by users of the premises. Environmental Health concurs with this view.

It is therefore considered that the proposed decking area would have a materially adverse impact on the residential amenities of the adjoining occupiers by way of noise nuisance and general disturbance, particularly during the late hours of the evening. In addition, the raised decking area would result in overlooking. The proposals are therefore in conflict with Policies HG1 'Existing Housing Areas' and ENV3.7 Control of Pollution of the Unitary Development Plan.

2. The effect on the character of the area:

The site of application is within the Aston Conservation Area, and the building is prominently located in the street scene. The physical changes are to the rear of the property, which already has a small utilitarian extension and fire escape. The changes are also utilitarian in nature, comprising a larger flat roofed kitchen extension, new staircase and large gantry area at the first storey level, thus exacerbating the existing poor treatment of the rear elevation to the building. Additionally, notwithstanding that the affected elevation is at the rear of the property, it is within the public domain readily visible from properties to the rear and the side of the building, and from the adjacent North Farm Court. It is therefore considered that the proposals would not have a positive impact on the environment and would miss an opportunity to visually improve the elevation to the building by the use of elements which are more appropriate, in terms of their scale and design. The proposals would, therefore, by way of their scale and design have an adverse impact on the character of the Conservation Area in conflict with Policies ENV 2.11 Development in Conservation Areas, and ENV 3.1 Development and the Environment of the Unitary Development Plan, as well as guidance in PPS5 'Planning for the Historic Environment'.

3. Other comments raised by the objectors:

With regard to car parking, the site is within a sustainable location, close to residential premises, and on a bus route, and Transportation Unit have raised no objections relating to the loss of car parking provision.

Other issues relating to anti social behaviour and drug use are police matters.

Conclusion

The proposals would have a materially adverse impact on the residential amenities of adjoining occupiers by way of noise nuisance and general disturbance as well as overlooking and fail to take the opportunity to have a positive impact on the visual amenities of the area. It is therefore recommended that permission be refused.

RB2011/1218

Continuation of use of class A1 non-food premises and garden centre & car park with removal of condition 3 (no retail sales of food) imposed by R83/1679P at former B & Q, Tenter Street, Thornhill for Oakgate (Rotherham) LLP.

RECOMMENDATION: REFUSE

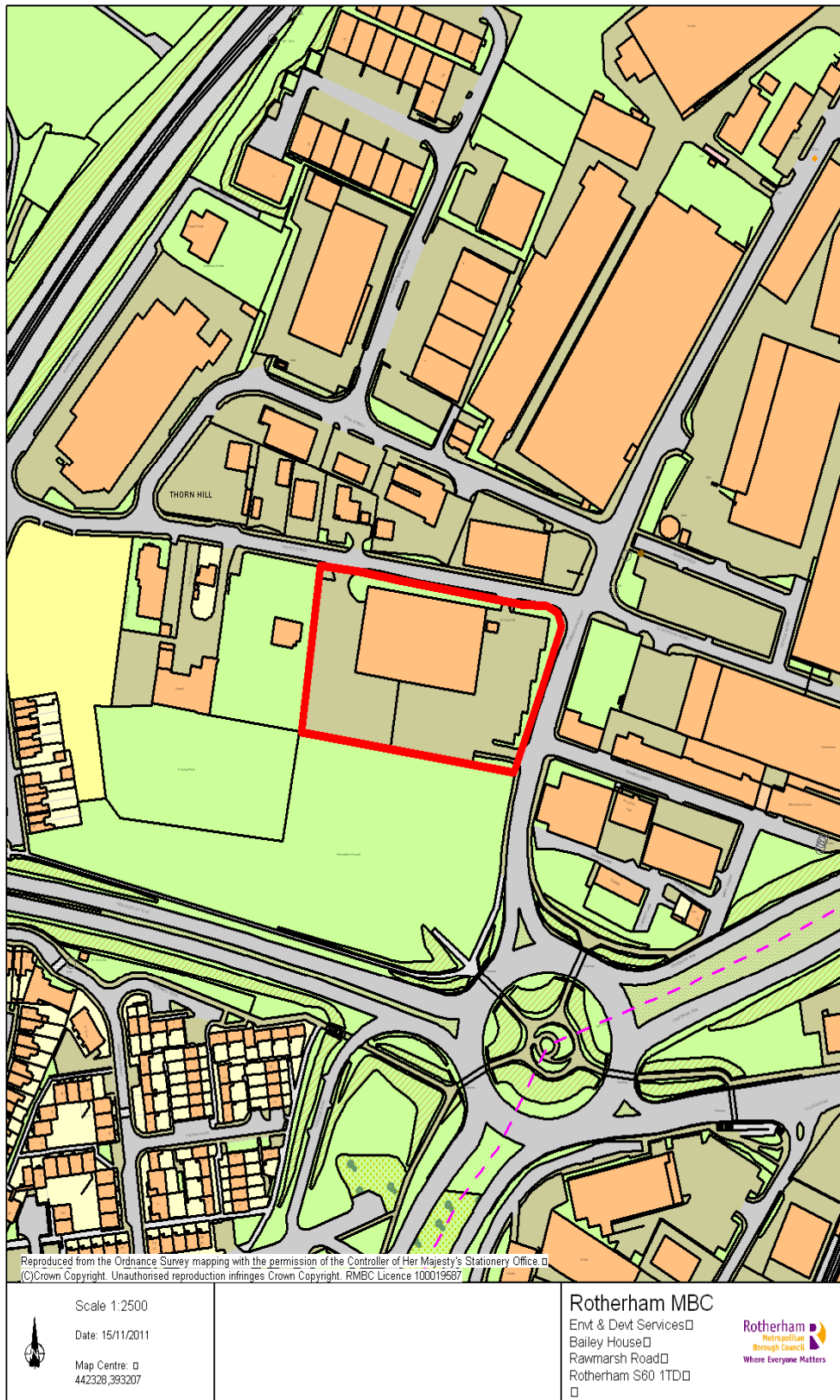
REASON FOR REFUSAL

01

The removal of the non-food retail sales condition attached to RB1983/1676 would introduce a food retail store in an out-of-centre location. The Council considers that insufficient information has been submitted to demonstrate that all more central sites in the catchment area have been thoroughly assessed. Furthermore, it is considered that the submitted Retail Assessment fails to adopt the flexibility required by PPS4 'Planning for Sustainable Economic Growth' in considering sequentially preferable sites. The removal of the condition would lead to a development that is considered to be contrary to Policy EC17.1 (a) of PPS4 'Planning for Sustainable Economic Growth'.

02

The removal of the non-food retail sales condition would essentially render the premises with an open A1 (retail) permission with a gross floorspace of 2,880 sq metres. This would exceed the convenience floorspace requirements identified in the 2010 Rotherham Town Centre Retail and Leisure Study to 2019 in an out of centre location which is not well located to Rotherham town centre, leaving only 255 sq metres gross convenience floorspace to 2026. Accordingly, the removal of the condition would be likely to have a significant impact upon the vitality and viability of Rotherham town centre, and the applicant has failed to provide an appropriate assessment of the impact of this proposal as the submitted impact assessment is not considered fit for purpose. As such the proposal is contrary to Policy EC17.1 (b) of PPS4 'Planning for Sustainable Economic Growth'.



Background

There have been a number of previous planning applications submitted relating to this site dating back to the 1950s. Planning permission RB1983/1676 relates to the erection of class 1 non-food premises and garden centre and car park and was granted conditionally on 19 January 1984.

Condition 3 attached to the aforementioned permission states:

‘This permission is given only on the basis that no retail sales of food will take place.’

The reason for the imposition of this condition was that the location was considered unsuitable and the number of parking spaces available would be insufficient for the purposes of food retailing.

The current application is now seeking to remove condition 3 to allow full retail sales of food goods from the premises.

A previous application RB2010/0048 was submitted for the removal of condition 3 but was subsequently withdrawn.

Site Description & Location

The site is located immediately south of Tenter Street and west of the B6089 Greasbrough Street, on the north-west side of Rotherham.

The site is rectangular and is approximately 10,190 sq. metres in area. It currently comprises a 2,889 sq. metre gross floor area, flat roof, rectangular building to the north of the site with an associated area for a garden centre to the south-west of the building and car parking to the south and east of the building with space for 133 vehicles. It was previously occupied by B&Q but has been vacant since they relocated to a site off Rotherham Road in 2009.

Vehicular access to the site is taken from Greasbrough Street at the south-east corner of the site with egress being onto Tenter Street. The service area is accessed from Tenter Street at the north-west corner of the site.

To the north, west and east of the site there are industrial and commercial buildings being used for a variety of B1, B2 and B8 uses. To the south of the site there is an area of grassland which is used as a playing field for residents of the Thornhill and Masbrough areas of the Borough.

Proposal

The applicant has submitted a section 73 application to remove condition no. 3 of RB1983/1676.

This states: “This permission is given only on the basis that no retail sale of food will take place.” This reason given for this condition being attached was, “The location is considered unsuitable and the number of parking spaces available is insufficient for purposes of food retailing.”

The applicant has indicated that they envisage the development will create approximately 150 full time jobs or part time equivalent.

The existing car park provides approximately 195 spaces plus 13 disabled spaces, and was recently re-laid and re-marked after B & Q vacated the site.

The application involves alterations to the existing vehicular access to the site from Greasbrough Street. The existing vehicular access would be closed and a new access from Greasbrough Street would be created further up Greasbrough Street. This new access would be 'Access Only', with the existing vehicular access off Tenter Street being 'Exit Only'. The applicant has also indicated on the submitted plans various alterations to Greasbrough Street, including dedicated turning right turning lanes into the site.

The applicant in support of this application has submitted a PPS4 statement, a Transport Assessment and a draft Travel Plan. The PPS4 statement was submitted with the previous application that was withdrawn and has not been updated since August 2010.

PPS4 Statement

The PPS4 statement submitted as part of this application seeks to address the various PPS4 issues such as the sequential approach to site selection for new retail development and the impacts associated with the proposal with particular reference to the vitality and viability of the town centre. It provides an introduction to the proposal and which policies of the statement relate to the removal of the condition.

The statement indicates that at this stage there is no selected operator of the site and should the application be successful the removal of the condition will result in significant job creation (approximately 150 full time jobs or part time equivalent) and "bring a vacant under used urban land resource back into beneficial reuse." The remainder of the statement is split into two sections, one looking at the Sequential Approach as required under policy EC15 of PPS4, and the second looking at the Impact Assessment as required under policy EC16 of PPS4. These two sections are summarised below:

The Sequential Approach

The applicant has indicated in their sequential approach section that "the application site is circa 280 metres from the town centre boundary (as defined on the UDP Proposals Map) and, as such, is an edge of centre location." They go on to state that "By definition only sites located within the town centre will be sequentially preferable, albeit for the purposes of a robust assessment this statement considers a number of other edge of centre sites identified by RMBC as having development potential."

The applicant has identified the following sites, from the Council's analysis work on the recently withdrawn 'Rotherham Town Centre Strategic Development Framework – Interim Planning Statement (RTCIPS)', along with reference to the Core Strategy Revised Option (CRSO) and Rotherham Town Centre Retail and Leisure Study (RTCR&LS) where appropriate:

- Site A – Former Guest and Chrimes Site and adjoining land
- Site B – Existing Civic Area

- Site C – Forge Island
- Site D – ‘Satnam’ Site

The applicant indicates that all but Site C are located in an edge of centre location, with Site C being located within the town centre boundary as defined on the UDP Proposals Map.

They make the following conclusions in respect of the potential development sites listed above:

Site A – former Guest and Chrimes site and adjoining land – They indicate that paragraph 9.58 of the RTCR&LS concludes that the site is totally unsuitable for a new large town centre foodstore for numerous reasons including distance from the retail core and in particular the indoor market and the transport interchange. The applicant further states that this site is not appropriate for a new food store as the Council’s new Civic Offices are currently being built on the site and an application is currently in for Rotherham United’s new ground on the remainder of the site.

Site B – Existing Civic Area – The RTCR&LS concludes that, although edge of centre in retail terms, the provision of a large town centre foodstore on this site would be in keeping with the spatial vision for the town centre and furthermore notes that it is adjacent to the core retail area within the town centre, that is close to the indoor market, the bus interchange and many of the town centre’s current comparison goods operators. The applicant has disregarded this site as an option because they are of the understanding that the site is identified as a relocation site for the existing Tesco Store and that “Rotherham Metropolitan Borough Council have agreed terms with TCN UK to bring forward a redevelopment scheme incorporating a new town centre Tesco store.”

Site C – Forge Island –, “Whilst the RTCR&LS is not explicit, it is understood that it is proposed to relocate the existing Tesco store from this site to Site B.” They go on state that Paragraph 9.72 of the RTCR&LS concludes the loss of retail on the Forge Island site is unlikely to produce a negative impact on the town centre, providing a bigger, fully integrated store is built elsewhere within the town centre. They have disregarded this site because they are of the opinion that should Tesco relocate from this site it is standard practice for food retail operators to place a restriction on the reuse of the old site preventing food retail use.

Site D – ‘Satnam’ site, off Westgate – The applicant indicates that the RTCR&LS concludes that the provision of a large town centre food store on this site would be contrary to the overall spatial vision for Rotherham which proposes that this site would be best used as a new independent quarter. The applicant also states that, whilst planning permission has previously been granted for retail development on the ‘Satnam’ site it generated no market interest and that permission has now lapsed. The applicant has disregarded this site because the RTCR&LS states that this site would be best used as a new independent quarter comprising of a residential led mixed-use development with a business cluster.

The applicant states that on the basis of the above, the application site is the only suitable, available and viable site for the provision of a food store to meet the requirements of the RTCR&LS above and beyond that which will be met through the relocation of the existing Tesco store to a more centrally located site. They further state

that there is clearly a requirement for an additional food store to serve the Rotherham catchment and that this requirement will not be met by the relocation of the Tesco store.

In conclusion, the applicant believes the application site is a well established retail location which is both suitable, available and viable on which this requirement for an additional food store can be met.

Impact Assessment

In order to satisfy policy EC16 of PPS4 the applicant has provided an impact assessment of removing the non-food condition on the town centre.

The applicant indicates they are of the opinion that the application proposal to facilitate food sales from the former B&Q unit on Tenter Street will have no material impact on the delivery of the TCN UK scheme or any other existing, committed or planned public or private investment in the town centre. The applicant further states, "This conclusion is derived from the analysis of the scale of the proposal and its likely trading characteristics compared to requirements for additional convenience goods floorspace identified by the RTCR&LS. Moreover, the application site is not identified for any alternative use in the emerging spatial strategy so its redevelopment will not prejudice alternative development objectives."

The applicant states, "The RTCR&LS identifies a requirement at Table 6.1 for 1,340 sq metres net convenience goods floorspace by 2014, 1,565 sq metres net by 2019 and 2,035 sq metres net by 2026. By comparison, the application proposal provides a net sales area of 1,728 sq metres net (assume 65% net/growth ratio) of which 1,362 sq metres (80%) will be devoted to convenience goods and 346 sq metres net will be devoted to comparison goods. Accordingly, the application proposal broadly provides a level of convenience goods floorspace (1,382 sq metres) consistent with the identified requirements at 2014 (1,340 sq metres)."

The applicant also states that it will be 2013 at the earliest by the time a retail occupier is secured, alterations to the building agreed and constructed, and the store has opened and achieved a stable pattern of trading. The applicant points out that the application proposal will in general terms cater for the growth in convenience goods expenditure over the period 2010 – 2013.

The applicant indicates, "although the site is in an edge of centre location it is appropriate in scale in relation to the size of Rotherham town centre and its role in the hierarchy of centres." They further state, "at 1,362 sq metres net floorspace devoted to convenience goods the application proposal is consistent with identified requirements for additional convenience goods floorspace to meet the growth in convenience goods expenditure and, as a result of its modest scale will enhance consumer choices rather than create a monopoly position."

The applicant concludes that overall, particularly against the background of significant growth in convenience expenditure, any impacts from trade diversion will be spread between the existing food stores both in the town centre and those in out of centre locations. As such impact will be dispersed and the impact on any one store, or indeed the town centre, will be de minimis and there will be no detrimental impact on the vitality and viability of the town centre.

Transport Assessment (TA) and draft Travel Plan (TP)

The TA and TP contain sections on, Transport Context, Proposed site access and service arrangements, parking, road safety analysis, traffic assessment and junction testing capacity.

The TA states whilst the site is currently unoccupied, it benefits from an historic use as class A1 non-food retail and was formerly used as a DIY store and garden centre. From a transport perspective, the proposal is therefore to replace the DIY store and garden centre with a foodstore of the same gross floor area.

A summary of the report is given below:-

- The fact that the site benefits from planning permission for a DIY store and garden centre demonstrates an acceptance that the site is a suitable location for a travel intensive land use.
- The proposal site is within walking distance of a reasonable local catchment area for customers and staff and the proposed site layout ensures that the site is connected to the local pedestrian network in order to encourage trips by this mode.
- A significant local catchment area is also within cycling distance of the site and secure cycle parking facilities will be provided, in line with local standards, to encourage cycle trips.
- The site is well served by bus, and is approximately a 10 minute walk from Rotherham bus interchange. The Kimberworth Park Circular, route numbers 41 and 42, which stops within 150m of the site and runs every 15 minutes in each direction, is ideally placed to serve a retail development at this site.
- The site is accessible to the road network being adjacent to the B6089 Greasbrough Street, north of the A630 / A629 roundabout which forms part of the main highway network into and through Rotherham.
- A travel plan will be implemented to encourage staff to utilise non-car travel modes for their work trips.
- The proposed parking provision is in line with parking standards.
- The reconfiguration of the internal site layout is well conceived.
- There is no pattern of accidents on Greasbrough Street and Tenter Street in the vicinity of the site which might have a negative bearing on the acceptability of the proposed development.
- The proposed Greasbrough Street Improvement Scheme has been designed to improve road safety and offers a significant improvement over the existing scenario for both pedestrians and vehicles.
- The capacity modelling exercise demonstrates that the College Road roundabout, the Tenter Street / Greasbrough Street junction, Hope Street /

Greasbrough Street junction and the Greasbrough Road / Greasbrough Street junction will be capable of accommodating the surveyed traffic in combination with the expected development traffic.

The applicant's TA further states, "This TA demonstrates that the proposed development is accessible by a choice of travel modes and that the highway network local to the site including College Road roundabout and Tenter Street / Greasbrough Street junction can accommodate the likely increase in traffic at peak times due to the proposed development."

In addition, it states "...the revised development proposals include a safety improvement scheme for Greasbrough Street as well as a capacity improvement to the Tenter Street / Greasbrough Street junction and a revised internal site layout which will provide a better vehicle circulation, separation of vehicular and pedestrian movements and dedicated parking spaces for the disabled adjacent to the store entrance. On the basis of the above, the TA concludes that the development is acceptable from a transport perspective.

A TP is proposed to be implemented to encourage store staff to utilise non-car travel modes for their work trips.

Development Plan Allocation and Policy

The application site is located within an area allocated for Mixed Use purposes within the Council's adopted Unitary Development Plan (UDP). The site is located within the Mixed Use area known as MU18 – Thames Street within which Use Classes A3, B1, C1 and D1 are listed as being acceptable in principle.

The application has been assessed against the following UDP policies:

EC5 'Mixed Use Areas' which states, "Within Mixed Use Areas shown on the Proposals Map, a variety of land uses will be acceptable; the particular uses appropriate to each area and any limitations or requirements pertaining to these uses or their location being set out in Chapter 7 of this Written Statement."

T6 'Location and Layout of Development' which states, "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..."

T8 'Access' which states, "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

In addition to the above Development Plan Policies the proposal has also been assessed against the following National Planning Statements (PPS) and National Planning Policy Guidance Notes (PPG);

PPS1 'Delivering Sustainable Development (2005)' sets out the Government's objectives for the operation of the planning system. Paragraph 27 notes at sub paragraph (vii) that development should reduce the need to travel and that planning should actively manage patterns of urban growth to make the fullest use of public transport and focus development in existing centres and near to major public transport interchanges.

PPS4 'Planning for Sustainable Economic Growth' (2009) sets out the Government's objectives in this respect and these include:

- Building prosperous communities by improving economic performance of cities, towns, regions, sub-regions and local areas.
- Delivering more sustainable patterns of development, reducing the need to travel, especially by car.
- Promoting the vitality and viability of town and other centres as important places for communities. To do this, the Government wants:
 - New economic growth and development of main town centre uses to be housed in existing centres.
 - Competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres.

Within PPS4 it sets out both plan making policies and development control policies, but for the purposes of this application only the development control policies will be relevant, which are as follows:

Policy EC10 – Determining Planning Applications for Economic Development states at EC10.1, Local Planning Authorities should adopt a positive and constructive approach towards planning applications for economic development and that planning applications that secure sustainable economic growth should be treated favourably. While, at EC10.2 it states that all planning applications for economic development should be assessed against the following impact considerations:

- (a) whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to climate change.
- (b) the accessibility of the proposal by a choice of means of transport and the effect on local traffic levels and congestion.
- (c) whether the proposal secures a high quality and inclusive design.
- (d) the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives.
- (e) the impact on local employment.

Policy EC14 – Supporting Evidence for Planning Applications for Main Town Centre Uses, notes at EC14.3 the requirement of a sequential assessment for planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date development plan.

Policy EC15 – The Consideration of Sequential Assessments for Planning Applications for Main Town Centre Uses that are not in a Centre and not in accordance with an up to date Development Plan, states that in considering sequential assessments required under Policy EC14.3 Local Planning Authorities should:

- (a) ensure that the sites are assessed for their availability, suitability and viability.
- (b) ensure that all in centre options have been thoroughly assessed before less central sites are considered.
- (c) ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access.
- (d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility.

Policy EC16 – The Impact Assessment for Planning Applications for Main Town Centre Uses that are not in a Centre and not in accordance with an up to date Development Plan, states that such applications should be assessed against the following impacts on centres:

- (a) Impact of the proposal on existing, committed and planned public and 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 consumer choice and the range and quality of comparison and convenience retail offer.
- (c) the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan.
- (d) in the context of a retail or leisure proposal, the impact of the proposal on 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 5 years from the time the application is made.
- (e) if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres.
- (f) any locally important impacts on centres under policy EC3.1e

Policy EC17 – The Consideration of Planning Applications for Development of Main Town Centre Uses not in a Centre and not in accordance with an up to date Development Plan, states at Policy EC17.1 “Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where:

- (a) the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or
- (b) there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of the impacts set out in policies EC10.2 and EC16.1

(the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.”

Policy EC17.2 meanwhile states, “where no significant adverse impacts have been identified under policies EC10.2 and EC16.1, planning applications should be determined by taking account of:

- (a) the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
- (b) the likely cumulative effect of recent permissions, developments under construction and completed developments.”

PPG13 ‘Transport’ (2000) sets out the Government’s intention to integrate planning and transport at a national, regional, strategic and local level. In terms of the relationship between transport and retail development, the guidance states that shopping and other trip generating uses should be promoted in locations which are most likely to offer a choice of means of transport and reduce the dependence on the private car.

The Council’s Town Centre Retail and Leisure Study (2010), contains the data regarding the need for additional retail floorspace, is also considered to be a material planning consideration. Although, it must be recognised that the spatial recommendations have not been adopted by the Council and as such do not represent an approved strategy in terms of uses for particular sites.

Section 6.0 of The Town Centre Retail and Leisure Study presents the results of the assessment of the need for additional convenience goods and non-bulky and bulky comparison goods floorspace within the town centre. It should be noted that the floorspace need results generated are considered to be the likely maximum levels of need for each category of goods at the agreed forecast years of 2014, 2019 and 2026. In terms of the needs assessment for convenience goods floorspace, the study indicates that the floorspace need in gross terms is as follows:-

- by 2014 – 2,060 sq. metres
- by 2019 – 2,410 sq. metres
- by 2026 – 3,135 sq. metres

Further to the above a Borough Wide Retail and Leisure Study was undertaken earlier this year. This Study identified a broad need for around 8,660 sq. metres of convenience goods floorspace across Rotherham to 2027.

Draft Policies within the emerging Local Development Framework, which was out to consultation earlier this year identifies that the Council will plan to accommodate 9,000 sq. metres gross of convenience floorspace to 2027, and the town centre will be the focus for the majority of this floorspace. A further policy states “A sustainable, well integrated extension of Rotherham town centre with good links to public transport interchanges to accommodate longer term retail floorspace requirements will be promoted.” A number of site are identified which could be for this extension, these are Drummond Street Car Park, the existing civic area and Crinoline House.

Publicity

The application has been advertised in the local press and by way of a site notice, while occupiers of neighbouring commercial premises have been notified in writing. No comments have been received.

Consultations

Transportation Unit have no objections from a highways perspective subject to conditions.

Forward Planning have stated that the sequential approach has not been satisfied. Given the Council's commitment to the renaissance of Rotherham town centre, they also consider the potential impact on the vitality and viability of the town centre to be significant.

Director of Housing and Neighbourhood Services (Environmental Health) envisage no significant loss of amenity by virtue of noise, air quality or land pollution impact.

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.

In order to determine the impact the removal of the non-food condition attached to RB1983/1678 would have on this site, the town centre of Rotherham and the surrounding highway network, the following issues are deemed to be relevant:

- Appropriateness of the site to cater for non-restrictive food sales
- Impact the removal of the condition would have on the vitality and viability of the town centre
- Impact the removal of the condition would have on the immediate surrounding highway network
- Economic Benefit

Appropriateness of the site to cater for non-restrictive food sales

The site which the application relates to is located within an area allocated for Mixed Use purposes within the Council's adopted UDP. The Mixed Use Area is identified in Chapter 7 of the UDP as being Mixed Use Area18 (MU18) – Thames Street, and it indicates that in this particular mixed use area, proposals falling within Use Classes A3, B1, C1 and D1 will be acceptable in principle.

It is considered that although Use Class A1 (shops) is not specifically mentioned as being a class of development that would be acceptable in this particular mixed use area, given the site was last occupied by the bulky goods retailer B&Q for over 20 years until their relocation in 2009, this particular site has a long established history of being used for retail purposes.

In accordance with PPS4 the applicant has submitted a sequential test and impact assessment; however the statement submitted has not been updated since the submission of the previous withdrawn application. Within that statement one of the sections, which is required by the policy, looks at the appropriateness of a particular site for a town centre use, of which a food retail store is one. This is done in the form of a sequential approach, whereby the applicant looks at and assesses available sites firstly within the town centre, then sites that are classed as being edge-of-centre, then sites which are classed as being out-of-centre. The sequential approach is designed to ensure that town centre uses, such as food retail stores are located within the town centre, but if there are no available town centre sites, then the next preferred option, is sites classed as being edge-of-centre, with the last resort being sites located in an out-of-centre location. The applicant in their statement must indicate why they have disregarded a site that would be more sequentially preferable to the one they have chosen for a food retail store.

At paragraph 4.9 of the submitted PPS4 statement it is argued that the site is edge-of-centre by virtue of being 280 metres from the town centre boundary. PPS4 is clear that for retail purposes edge-of-centre is defined by proximity to the primary shopping area. Within Rotherham town centre a number of prime shopping streets are defined (UDP map 5, page 203) and therefore edge-of-centre should be measured by proximity of the site to these rather than the town centre boundary. The end of Frederick Street is the closest prime shopping street to the site, and at a walking distance of some 550 metres to the car park entrance, the site is clearly out-of-centre.

In addition, Annex B of PPS4 states that for retail purposes, an edge-of-centre location is one that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area. It goes on to state that "In determining whether a site falls within the definition of edge-of-centre, account should be taken of local circumstances. For example, local topography will effect pedestrians' perceptions of easy walking distance from the centre. Other considerations include barriers, such as crossing major roads and car parks, the attractiveness and perceived safety of the route and the strength and attraction and size of the town centre. A site will not be well connected to a centre where it is physically separated from it by a barrier such as a major road, railway line or river and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre."

The above definition within PPS4 of what an edge-of-centre site is, adds further weight to the consideration that this site is clearly out-of-centre, and not edge-of-centre as the applicant has argued as it is approximately 550m with a number of pedestrian barriers between this site and the prime shopping streets.

The applicant's sequential approach section of the PPS4 statement discounts a number of sequentially preferable sites.

The Guest and Chrimes site now has permission for the development of a community football stadium and can be discounted.

The current Council civic area (approximately 2.8 ha), an edge-of-centre, sequentially preferable location, is discounted by the applicant because it is perceived as a site for the relocation of the current Tesco. No planning application for such a scheme has yet been received. The PPS4 practice guidance indicates that consideration of availability

should have regard to sites available now or which are likely to become available in a reasonable period of time. The Council has committed to relocate its Council offices; the new offices are being occupied from late 2011 with the vacated civic site then becoming available for redevelopment from 2013. The practice guidance at paragraph 6.39 also indicates that "...whether it is appropriate to assess availability over the three to five years, or a longer time period will depend upon local circumstances." Further, at paragraph 6.41 the guidance notes "When promoting a proposal on a less sequentially preferable site, it will not be appropriate for a developer or retailer to dismiss a more central location on the grounds that it is not available to the developer / retailer in question." Clearly the civic site will be available within a three to five year period, and it forms part of the area identified through the LDF consultation as a potential extension to Rotherham town centre and therefore it is considered that the civic site should not be discounted.

Similarly Forge Island has been discounted on the grounds of future aspirations. The site remains within the town centre and sequentially preferable. Whilst the Council do not agree with the reasons put forward by the applicant for discounting the site, it is agreed that the site could be discounted as the site is in use at present and there is no indication as to when or if it may become available.

The Satnam site has been discounted on the basis of the emerging strategy, and the status of the town centre retail study has been indicated earlier in the report. It is noted that the retail permission on the site has lapsed, although it remains in use as a car park the planning history of the site indicates interest in the redevelopment of the site and therefore it could be argued that it remains a sequentially preferable edge-of-centre site. Indeed the Council has received representations to its current consultation on the LDF which promote retail development on this site.

On the basis of the above, it is concluded that the sequential approach has not been satisfied as there are clearly other immediately available sites or sites that will be available within three to five years which are located in a more sequentially preferable location to the out-of-centre location of the application site. Accordingly, the removal of the non-food retail condition to allow a food retailer to operate from this site would not meet the requirements of Policy EC15 of PPS4 which requires developers to demonstrate that where there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations that are well connected to the centre by means of easy pedestrian access.

In addition to the above, it is of note that although not yet adopted, none of the draft policies within the Council's emerging LDF would alter the Council's opinion that the site is out-of-centre and there are more sequentially preferable sites, both at the present time and should the LDF be adopted.

Impact the removal of the condition would have on the vitality and viability of the town centre

Contrary to the applicant's argument, at paragraph 4.25 of the PPS4 statement, the documents referred to do not provide "...a clear spatial strategy for the town centre..." The Interim Planning Statement has been withdrawn, the Core Strategy has not been adopted, nor have the site specific recommendations in the retail and leisure study been adopted by the Council. Consultation has taken place on Issues and Options for site

allocations; however it is not possible to say at this stage (as per paragraph 4.28) that the proposal won't prejudice alternative development objectives for the site.

Paragraph 9.58 of the 2011 Retail and Leisure Study assesses convenience floorspace development in Rotherham town centre and states that "...should proposals come forward which would secure the provision of a more modern and / or larger superstore than that which already exists, this would enhance the town centre's retail offer, broaden its function and offer the opportunity for it to secure additional expenditure through linked shopping trips, which would also facilitate sustainability benefits. A new town centre superstore would also serve to improve the accessibility to large food stores of non-car users."

The applicant argues that food sales will not impact on the town centre vitality. Removal of the existing condition would essentially provide the premises with an open A1 permission, and as such it is only logical that any assessment assumes that up to 100% of net floorspace could be for convenience floorspace (particularly as it is indicated that no end user for the premises have been identified). With a gross floorspace of 2,880 sq. metres these premises would provide almost a third of the gross convenience floorspace provision for the whole of Rotherham to 2027 (9,000 sq. metres) in an out-of-centre location. Given the existing of sequentially preferable sites, the Council does not agree that there would be no detrimental impact on the vitality and viability of Rotherham town centre.

PPS4 Policy EC17 indicates that applications should be refused where the applicant has not demonstrated compliance with the requirements of the sequential approach or that there is clear evidence that the proposal will lead to significant adverse impacts.

In light of the above, it is considered that the sequential approach has not been satisfied and given the Council's commitment to the renaissance of Rotherham town centre, it is considered that the potential impact on the vitality of the town centre to be significant.

Impact the removal of the non-food retail sales condition would have on the immediate surrounding highway network

The Council's Transportation Unit have audited the submitted TA which was submitted in support of this application. The Transportation Unit have raised the following comments:

Trip Generation / Highways impact

The site is currently vacant and therefore generates no vehicular movements. However, the previous occupiers (non food retail) had a substantially different pattern and volume of trips to those associated with a food retail use. The TA uses data taken from classified counts on a Friday and Saturday although the Friday evening peak is unlikely to be representative of Monday to Friday traffic and the trip rates are therefore likely to underestimate the true picture slightly. Furthermore some of the peak hour times quoted are considered to be incorrect. In order to get a likely estimate of the true number of trips attracted to the proposed use, the net trips have been recalculated for weekdays 8am to 9am and 5pm and 6pm as well as Saturday 12am – 1pm. This indicates a net increase in trips of 157,317 and 197 in the weekday AM, PM and Saturday peaks respectively. This compares with the figures in the TA of 142,267 and 201 trips.

The adjacent College Road roundabout has been modelled using TRANSYT although the modelling has used a passenger car unit (pcu) of only 2.0 HGV's whereas RMBC uses an equivalent of 2.3 pcu's i.e. a difference of 14%. Tables 10 and 11 from the TA show a degree of saturation of 106% for the pm peak on the entry arm from Greasbrough Street in the base flows but 98% with the development flows. The TA dismisses this anomaly without any satisfactory explanation. The TRANSYT modelling suggests that there will be problems with queuing back from the College Road Roundabout.

Road Safety

Current accident data suggests that whilst frequency is relatively low the difficulty of certain manoeuvres is such that regular accidents will continue to occur although an extensive remodelling of the highway along Greasbrough Street is proposed which would radically alter some aspects such as crossing points.

Travel Planning

A number of things have been suggested in the TA that could be included in a travel plan; however, there are no firm proposals so little weight can be attributed to this at present.

The TA concludes that the location of the food store would abstract trips from the sites which are in more sustainable locations. Access would be mainly from Greasbrough Street which is heavily trafficked at times. The development as proposed will lead to greater congestion, delay and pollution. The operation assessment of junctions shows that there is likely to be a problem with queuing at the Greasbrough Street arm of College Road Roundabout. However, a robust travel plan could reduce the likelihood of an excessive volume of car traffic being generated and other highway related measures, secured by condition, could mitigate some of this impact.

Economic benefit

The applicant's supporting statement indicates that at this stage there is no selected operator of the site and should the application be successful the removal of the non-food condition will result in significant job creation for the area, with approximately 150 full time jobs or part time equivalent and the proposal would also bring a vacant under used urban land resource back into beneficial reuse.

The jobs proposed would with the current economic situation be welcomed and would help boost the Borough's economy. It is considered that the creation of jobs and the bringing back into use this particular site could overcome the fact there are more sequentially preferable sites on the edge-of-centre, however in this instance it is considered that the jobs the proposal would create would not overcome the issue that the relaxing of the non-food retail condition would have a significantly detrimental impact on the vitality and viability of Rotherham town centre.

Therefore, although the opening of the site for food retail sales would result in a significant number of jobs and would bring back into use a large vacant site that would have some economic benefit for the Borough, the proposal would significantly and adversely impact on Rotherham town centre in terms of its vitality and viability.

Conclusion

To conclude, policy EC17 of PPS4 indicates that applications should be refused where the applicant has not demonstrated compliance with the requirements of the sequential approach or that there is clear evidence that the proposal will lead to significant adverse impacts. Having regard to all of the above it is considered that insufficient information has been submitted to demonstrate that all more central sites have been thoroughly assessed and the PPS4 statement fails to adopt the flexibility required by the Policy in considering sequentially preferable sites. Furthermore, given the Council's commitment to the renaissance of Rotherham town centre the removal of the non-food retail sale restriction in this out-of-centre location would be likely to have a significant impact upon Rotherham town centre. In addition, the applicant has failed to provide an appropriate assessment of the impact of this proposal on the vitality and viability of Rotherham town centre.

Therefore, the removal of the non-food retail sales condition would be in direct conflict with the policies and guidance of PPS4 and the relevant policies of the Council's adopted UDP. The application, with regard to all of the above is recommended for refusal.

RB2011/1263

Erection of a two-storey building with rooms in roofspace comprising retail (use class A1), Financial and Professional Services (use class A2), Coffee Shop (use class A3), Dental and Doctors Surgery (use class D1) at ground floor, 12 residential units above and associated bin store at the previous site of Ex-Serviceman's Club, Canklow Road, Canklow for Mr. I. Henderson.

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:

Development Plan:

Local Planning Policy

HG1 'Existing Housing Areas' seeks to ensure predominantly residential areas are retained primarily for residential use.

HG4.3 'Windfall Sites' states that housing developments will be determined in light of their location within the existing built up area.

HG4.8 'Flats, Bed-sitting Rooms and Houses in Multiple Occupation' states that the creation of flats will be permitted provided that a concentration of these forms of

accommodation does not seriously interfere with the amenities of existing residents and adequate parking provision is incorporated.

ENV3.1 'Development and the Environment' requires all development to make a positive contribution to the environment by achieving an appropriate standard of design.

UTL3.4 'Renewable Energy' states there will be a presumption in favour of proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

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.

PPS3 'Housing' states that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

PPS4 'Planning for Economic Growth' sets out in Policies EC10 to EC18 the development management policies that are applied directly when determining planning applications. In this instance policies EC10.2 which sets out the criteria against which applications for economic development should be considered and EC16.1 which deals with the impact of proposals will be applicable.

PPG13 '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 journeys and reduced car parking provision.

For the following reasons:

The principle of both the residential and non-residential elements of the proposed development are considered acceptable as the proposed uses would comply with the requirements of the aforementioned policies of PPS4 and the UDP. This is because the application site is allocated for residential purposes within the Council's adopted UDP and the non-residential uses proposed would have no adverse effect on the character of the area or on the residential amenity of the area.

The proposal would represent an acceptable and appropriately designed building for this locality that would be in keeping with its character and appearance and would not have a detrimental impact on the visual amenity of the streetscene. In addition, the development successfully contributes to an attractive residential environment by virtue of its design, architectural style, height, size, scale, massing and materials. Therefore, the proposed development would comply with the provisions contained within PPS1 and UDP policy ENV3.1 'Development and the Environment'.

It is considered that on balance the proposal would satisfy the relevant policies of PPS4 and the development would therefore enhance and increase the current provisions within the Canklow area to the benefit of local residents.

The proposed development would not result in material harm to the MUGA, youth shelter, playing fields and pavilion in terms of sunlight, vandalism and anti-social

behaviour. As such it would not conflict with UDP policies HG1, HG5, ENV3.1 and ENV3.7 on this point, which seek to ensure that new development does not adversely affect local amenity or the quality of the environment, including in relation to the security of people and property, and do not allow development that is likely to give rise to nuisances.

The proposed development by virtue of its size, scale, form, design and siting together with its relationship with neighbouring properties would not appear overbearing or oppressive when viewed from neighbouring properties. Furthermore, by virtue of its size, height, form, massing and siting together with the orientation of the site the development would not result in any overshadowing of neighbouring residential properties to such a degree that would be detrimental to their amenity. Furthermore, the proposed ground floor uses, subject to conditions, would not give rise to any adverse levels of noise and general disturbance. The proposal would comply with UDP policies HG1, ENV3.1 and ENV3.7.

It is considered that the development would not result in material harm to the building's future occupiers in terms of noise and disturbance and the level of outdoor space. The proposal would not conflict with UDP policies ENV3.1 and ENV3.7.

The proposal, subject to conditions, would not give rise to any highway safety issues and the level of parking proposed within the site is acceptable and in accordance with PPG13.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. 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.

Reason

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

02

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

(Drawing numbers JBA.3021.102, JBA.3021.103, JBA.3021.105, JBA.3021.106, received 2 September 2011 and Drawing Numbers JBA.3021.101.A, JBA.3021.104.A and JBA.3021.107.A, received 18 October 2011)

Reason

To define the permission and for the avoidance of doubt.

03

No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been

submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

04

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

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

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

Reason

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

05

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.

Reason

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

06

The development shall not be commenced until details of the road safety scheme in the vicinity of the site have been submitted to and approved by the Local Planning Authority and the proposed development shall not be brought into use until the approved details have been implemented.

Reason

In the interests of road safety.

07

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

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

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

08

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

Reason

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

09

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.

Reason

In order to promote sustainable transport choices.

10

All doors and windows on the front elevation adjacent to the highway shall be inward opening only so as not to encroach over the highway when open or being opened.

Reason

In the interests of road safety.

11

Prior to the commencement of development, details of cycle parking facilities shall be submitted to and approved by the Local Planning Authority in accordance with the

Council's Cycle Parking Guidelines and the approved details shall be implemented before the development is brought into use.

Reason

In order to promote sustainable transport choices.

12

The D1, A1, A2 and A3 premises shall only be open for patients and customers and to receive deliveries between the following hours: 0800 to 2000 Mondays to Saturdays; and 0900 to 1600 Sundays and Bank Holidays.

Reason

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

13

At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before any work commences on the site. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

Reason

To ensure that at least 10% of energy demand for the building is achieved through decentralised or renewable energy sources in line with RSS Policy ENV5.

Informatives

01

INF 23 Adverts

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

02

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.

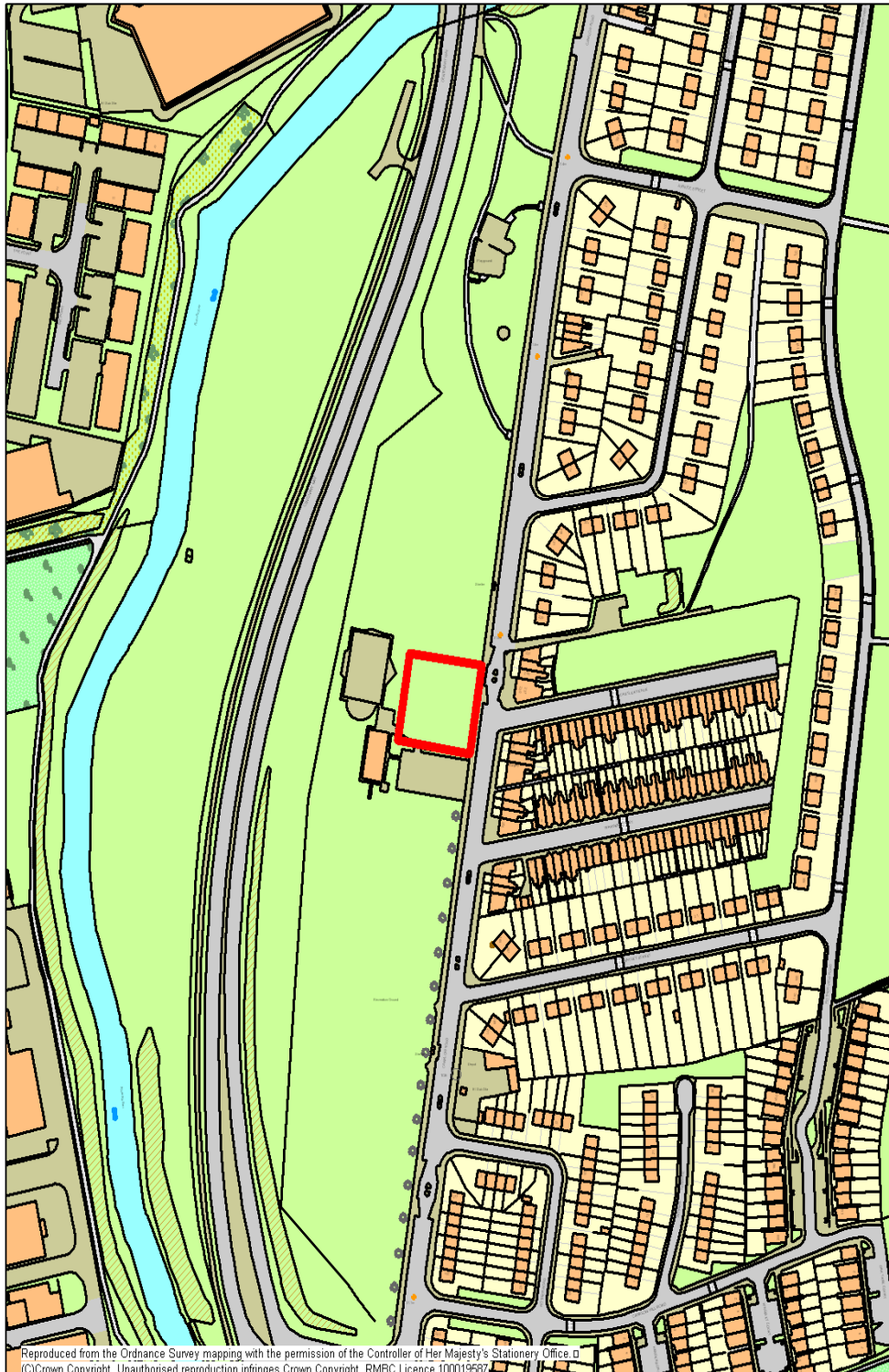
(iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall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

03

The applicant is advised that access for fire appliances should be in accordance with Building Regulations Approved Document B volume 2 part B5 section 16.

04

The applicant is advised that waster supplies should be in accordance with Approved Document B, Volume 2, part B5 section 15.



Scale 1:2500

Date: 15/11/2011

Map Centre: □
442555,391405

Rotherham MBC

Env't & Dev't Services □

Bailey House □

Rawmarsh Road □

Rotherham S60 1TD □

□



Background

There has been one previous planning application submitted relating to this site since the ex-Serviceman's building was demolished:

RB2010/0639 – Erection of a two-storey building with rooms in roofspace comprising retail (use class A1), Financial and Professional Services (use class A2), Coffee Shop (use class A3), Dental and Doctors Surgery (use class D1) at ground floor, 12 residential units above and associated bin store.

The application was refused on the 12th October 2010 but allowed on appeal on the 7th February 2011 by the Planning Inspectorate.

The current application is seeking an alteration to the previous application insofar as the site area has been reduced as the applicant has been unable to agree with a third party access over the existing adjacent car park. Therefore, the adjacent car park is not within the application site boundary, and the application site relates solely to land in the ownership of the applicant.

The design of the building's front elevation hereby proposed is slightly different to that approved on appeal as vehicular access will be through the front elevation at ground floor off Canklow Road.

The height of the building, its footprint and orientation are the same as that approved by the Planning Inspectorate, while the number units at ground floor has been reduced by the one, the uses remain as per those approved by the Inspectorate. Furthermore, the amount of amenity space provided with the site remains the same, and the number of parking spaces within the site has increased slightly.

Site Description & Location

The application site is located on the western side of Canklow Road which is a busy thoroughfare running through Canklow, parallel to Centenary Way. Canklow Road in the vicinity of the application site is heavily developed on the eastern side with circa early 20th Century two-storey residential dwellings with a scattering of commercial units peppered throughout. The west side of the road has a pavilion doubling as changing facilities for two football pitches and a MUGA, as well as a public car park. The since demolished Ex-Servicemen's Club sat in the middle of these activities.

Immediately south of the site is the current unmarked free public car park which is used by people using the recreational facilities and the commercial and community facilities on the opposite side of Canklow Road.

Though the Ex-Servicemen's Club is now demolished the surrounding area is still being used. The immediate locality comprises of two football pitches (a senior pitch to the south and a junior pitch to the north), a MUGA, changing facilities and a car park (all managed by the Green Spaces Department). Directly opposite the site on the ground floor of properties there is an off licence, medical surgery, two takeaways, a corner shop, a pharmacy and two vacant units.

Proposal

The applicant is seeking permission for the erection of a two-storey building with rooms in the roofspace on previously developed land.

The development comprises of a mini-market type retail unit, one smaller retail unit and a pharmacist (Use Class A1), one coffee shop (Use Class A3), and a dentist and a doctor's surgery (Use Class D1) at ground floor level configured in an anti-clockwise fashion from the southern corner of the development site. The applicant has indicated in the supporting documents that the smaller retail unit could also be used for purposes falling within Use Class A2 'Professional and Financial Services'.

At first floor level and the accommodation located in the roof space there will be twelve residential units constructed (two bedroom flats with open plan living accommodation).

The footprint of the proposed building would occupy 668m² of the total site area of approximately 1430m² which is approximately a half of the total available site area. The majority of the remaining area is taken up with access and car parking, a commercial waste compound sized approximately 43m² and some amenity space for proposed residents to hang their washing out and sit out.

The proposals take the form of 3 'L' shaped blocks segregated by two stair compartments. The scheme forms a contrived 'L' shaped block sitting along the northern and eastern boundary (with small returns along the southern and western boundaries).

The proposed building has an eaves level of 6.6 metres and a ridge height (at its highest) of 11.2 metres.

The front (eastern) elevation will have two large front facing gables with a glazed link element in the centre joining the two buildings at first and second floor. This has been altered from the previous approved scheme to allow direct vehicular access to the site off Canklow Road, instead of using the public car park to the south.

The front elevation would have an almost symmetrical form, with a front building line which from left to right steps back at the end of the gable and then steps back again to the glazed link element which then steps back out at the end and steps back again at the start of the opposite gable, so that the two end gables are the most forward projecting element of the elevation. The elevation would be constructed with a complementary brick around the base, quoin detailing on the various set backs and corners of the elevation, the ground floor would be constructed in a different brick with the first floor being rendered apart from the central section. There are dormer windows located on the eaves and large glazing sections at ground floor with access doors to the commercial premises, with space for signage above. Access to the coffee shop will also be derived from the courtyard, through the outdoor seating area. The shops will only be accessed by customers from the street.

The side (northern) elevation will again be of a symmetrical form, with a rendered and glazed central section which would have a lower ridge level and would be set back from the main elevations either side. This elevation like the remaining external elevations would have a complementary brick detail around the base, quoin detailing and a complementary brick soldier course above and below the first floor windows, with the remainder of the elevation being constructed in brick. This elevation, as well as the

remaining elevations would have a number of dormer windows inserted within it. All windows would have a sill detail.

The roofing material is proposed to be a flat concrete grey tile and the windows are proposed to be in softwood and painted white or white UPVC windows.

An amenity space sized some 115 sq. metres has been created adjacent to the building along the site's western boundary providing an amenity area for residential purposes. This area will be set out partially grass (with borders around the enclosed sides) and partially paved. The paved area will include both fixed and moveable planters and some fixed seating.

Access to this area will be from the car park (adjacent to the security corridor) with additional access to the rear sports facilities. These access gates will either be card or coded entry systems with only occupants of the flats knowing the code or possessing the card.

This area will be surrounded by brick walls to 2m in height with ironwork placed in recesses created from 1.1m in height. The brickwork will reflect the main brick used in the construction of the building and the ironwork will be of a similar design and colour to the full height fencing panels forming the secure maintenance corridor around the building.

A large commercial waste compound will be located below the grassed area along the boundary with the adjacent public car park. The compound would have a floor area of 22 sq. metres, an eaves height of 2.5 metres and a ridge height of 3.7 metres with a lean-to roof. The compound will be timber in design with horizontal slats spaced to allow a free flow of air through the building. A sprinkler system attached to a smoke sensor will be fitted within the construction and the timber will be treated with a fire retardant coating.

The residential waste compound will be located in a carded entry point located under the entrance stairs at each end of the building. These compounds are to be fire separated from the stair compartments and treated to a similar smoke detector / sprinkler system as specified above.

The proposed car park will contain 14 car parking spaces of which 2 will be disabled spaces.

Secure cycle storage is provided in the 'dead space' in the four staircase enclosures.

A small extension to the pavement surrounding the courtyard is to be built out and used as seasonal seating by customers of the coffee shop. The seating will be removed outside of approved operating hours. The seating area will be surrounded by planters similar to the ones proposed between the car park and access road.

The area within the courtyard and areas adjacent will be covered by a CCTV system, which is to be implemented on site. The applicant has indicated that the CCTV cameras would feed back to a system located in a secure store in the coffee shop and would then record to a hard drive.

'White light' lampposts with down lighters will cover the courtyard area with additional lampposts situated adjacent to the entrance. The lampposts are to be no higher than the first floor cill level.

The applicant has also indicated that they propose to implement Photovoltaic cells in the south facing roofs of the development to provide at least 10% of the energy required to power the units. It is envisaged that approximately 40 panels will be required or solar tiles will be used.

The applicant has also agreed to carry out improvements to the adjacent highway.

The following documents have been submitted in support of the planning application.

Design and Access Statement

This statement has 6 main sections, including use, amount, layout, scale, landscaping, appearance and access.

Within the Design and Access Statement the applicant has indicated his willingness to enter into an agreement with the Council over access and maintenance of the Council owned land within the application site.

Statement of Employment possibilities

A statement of employment possibilities has been submitted with the application. The statement indicates that there are approximately 25 people employed in the units on the opposite side of Canklow Road. The statement estimates the following employment numbers for each of the proposed uses:

The mini-market	Manager and Assistant Manager	2 Full time
	Retail staff	4 Full time
		3 Part time
Retail Unit 1	Manager	1 Full time
	Retail staff	2 Full time
		2 Part time
Coffee Shop	Manager	1 Full time
	Waiting staff	3 Full time
		2 Part time
Dental Surgery	Dental Surgeon	1 Full time
	Dental Nurse	2 Part time
	Receptionist	2 Part time
Pharmacy	Pharmacist	1 Full time
	Pharmaceutical Assistant	2 Part time
	Retail staff	2 Part time
Medical Centre	General Practitioners	2 Full time
	Practice Manager	1 Full time
	Clerical Assistants	2 Part time

	Receptionist	2 Part time
	Practice Nurse	1 Full time
		2 Part time
	Ancillary Medical Professionals	4 Part time
	District Nurse	1 Full time
Site Maintenance	Site Manager	1 Full time

In summary, the statement concludes that the development would increase employment opportunities of double the present numbers.

Transport Statement

The Transport statement states that the free public car park is used on a Sunday for footballing activities, and in the week by people using the commercial and community facilities opposite. Other than the aforesaid the site is derelict. The statement indicates that there is a bus stop located directly adjacent the application site and outlines the car parking provision.

PPS4 Statement

The PPS4 statement that has been submitted with this application looks to assess the ground floor uses within the proposed development on the surrounding area with regard to Policy EC16.1 (a) Impact Statement of PPS4. The statement sets out that the ground floor element of the development seeks to incorporate much of what is set out on the opposite side of Canklow Road.

The statement also sets out that the enhancement of facilities is particularly identified in the provision of a Coffee Shop, Retail Outlets, Dental Facilities, Pharmacy and a Medical Centre. The statement also states that the development falls within the remit of the HMR investment in Canklow and certain objectives within that 'plan' will be met and serviced by these proposals.

Development Plan Allocation and Policy

The application site is allocated for residential purposes within the Council's adopted Unitary Development Plan (UDP). The proposed development shall be assessed against the following Development Plan Policies:

UDP Policy HG1 'Existing Housing Areas' seeks to ensure predominantly residential areas are retained primarily for residential use by permitting only those proposals which have no adverse effect on the character of the area or on residential amenity, are in keeping with character of the area and make adequate arrangements for the parking and manoeuvring of vehicles associated with the development.

UDP Policy HG4.3 'Windfall Sites' states that housing developments will be determined in light of their location within the existing built up area.

UDP Policy HG4.8 'Flats, Bed-sitting Rooms and Houses in Multiple Occupation' states that the creation of flats will be permitted provided that a concentration of these forms of accommodation does not seriously interfere with the amenities of existing residents and adequate parking provision is incorporated.

UDP Policy ENV3.1 'Development and the Environment' seeks to ensure all development makes a positive contribution to the environment by achieving an appropriate standard of design.

UDP Policy UTL3.4 'Renewable Energy' states there will be a presumption in favour of proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

Other Material Considerations

The proposed development shall also be assessed against the requirements contained within the following national planning policy statements (PPS) and guidance (PPG):

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.

PPS3 'Housing' states that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

PPS4 'Planning for Economic Growth' sets out in Policies EC10 to EC18 the development management policies that are applied directly when determining planning applications. In this instance policies EC10.2 which sets out the criteria against which applications for economic development should be considered and EC16.1 which deals with the impact of proposals will be applicable.

PPG13 '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 journeys and reduced car parking provision.

Publicity

The application has been advertised in the local press and a site notice has been posted close to the site, while occupiers of neighbouring residential and commercial properties have been notified in writing. No comments have been received.

One Right to Speak has been received from the Applicant.

Consultations

Transportation Unit have no objections subject to conditions.

Forward Planning have stated that given that the last application (which seems virtually identical to this) was granted on appeal I have no further comments to make from a planning policy perspective.

Director of Housing and Neighbourhood Services (Environmental Health) has stated there is the potential for disamenity to neighbouring residential dwellings due to noise and dust pollution during construction and have advised that the construction informative is attached.

Green Spaces have acknowledged the Planning Inspector's views regarding comments I expressed about the previous application. However, I remain particularly concerned about the proximity of the proposed dwellings to the MUGA, sheltered seating etc. Should the development go ahead, then we would resist any future call to curtail people's use and enjoyment of the existing recreational facilities that might arise through complaints of nuisance.

Landscapes have no objections subject to conditions.

Urban Design officer has concerns over the design of the building.

Yorkshire Water has no objections.

SY Fire and Rescue have stated access for appliances should be in accordance with Approved Document B, Volume 2, part B5, Section 16 and water supplies should be in accordance with Approved Document B, Volume 2, part B5 section 15.

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 current application is similar to the scheme that was approved by the Planning Inspectorate in March this year, the current proposal on differs from the previous approved scheme insofar as the site area has been reduced so that it does not include the public car park to the south; the front elevation has been slightly altered to allow vehicular access from Canklow Road, and the number of parking spaces within the site have been increased.

It is considered that given the previous decision on a very similar scheme from the Planning Inspector, consideration has to be given to their comments.

In determining the application, the following are considered to be the main issues that need to be addressed:

- Principle of the development
- Design issues and impact on the streetscene
- Impact of the economic development of Canklow
- Impact on the surrounding green space area and users
- Impact on the amenity of neighbouring residents
- Effect on the building's future occupiers in terms of noise and disturbance and outdoor space
- Highway issues

Principle

The application site is allocated for residential purposes within the Council's adopted UDP. The site is presently unoccupied, however up until approximately 10 years ago the site was occupied by the Ex-Servicemen's Club and its car park, since its demolition the site has remained derelict. The site is considered to be a brownfield site as some of the concrete base of the former club is still on site.

Policy HG4.3 'Windfall Sites' states that the Council will determine proposals for housing not identified in Policies HG4.1 and HG4.2 in light of their location within the existing built-up area and compatibility with adjoining uses. The site is considered to be a windfall site; given that the surrounding area is predominantly residential.

Policy HG4.8 'Flats, Bed-siting Rooms and Houses in Multiple Occupation' states that the Council will permit the creation of flats, bed-siting rooms and houses in multiple-occupation, provided that a concentration of these forms of accommodation does not seriously interfere with the amenities of existing residents and adequate parking provision is provided for residents. The proposed flats are considered to satisfy the aforementioned policy as the proposed development would be the only flat development in Canklow and it would not adversely affect the amenities of existing residents, while adequate parking facilities are proposed.

Turning to the principle of the non-residential uses, UDP Policy HG1 'Existing Housing Areas' states that the Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which; have no adverse effect on the character of the area or on residential amenity, are in keeping with the character of the area, make adequate parking arrangements and are ancillary to the residential nature and function of the area.

The proposed non-residential uses are considered to satisfy the requirements of the aforementioned policy. This is because the non-residential uses proposed would by virtue of their nature and conditioned opening hours have no adverse effect on the character of the area or on the residential amenity of the area. Furthermore, the proposed ground floor uses would be ancillary to the residential nature and function of the area and adequate parking arrangements are proposed.

Policies EC15 and EC16 of PPS4 look at assessing economic development against the impact on the defined local centre and requires the submission of a sequential test to see if there are any sequentially preferable sites for the economic development. In this instance the proposed A1, A2 and A3 uses are defined as economic development. With regard to the current proposal it is difficult to address the aforementioned policies of PPS4 because there is no defined local centre at Canklow and therefore the Council are satisfied that there are no realistic alternative sequentially preferable sites to consider in this instance.

With regard to the above it is concluded that the principle of both the residential and non-residential elements of the proposed development are considered acceptable as the proposed uses would comply with the requirements of the aforementioned policies of PPS4 and the UDP.

Design issues and impact on the streetscene

PPS1 and PPS3 encourage the use of best practice in the design of proposals in order to provide high quality developments and policy ENV3.1 of the adopted UDP requires all development to make a positive contribution to the environment by achieving an appropriate standard of design. PPS1 at paragraph 34 states 'Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.'

The proposed development forms a contrived 'L' shaped block sitting along the northern and eastern boundaries (with small returns along the southern and western boundaries) in order to maximise the impact of the development to Canklow Road. In addition the design of the building has tried to reflect the features of the properties opposite by adopting large, pitched roofs and a two and a half storey construction. Although the proposed development is slightly taller than the existing dwellings opposite, the difference is outweighed by the sloping nature of the streets running up hill to Canklow Woods to the east. A further reduction in the apparent mass of the front elevation is gained from splitting the building as a whole into three parts segregated by a glazed link at first and second floor.

The proposed building has an eaves level of 6.6 metres and a ridge height (at its highest) of 11.2 metres. This is at odds to the dwellings opposite but considering that this development is to be a village hub and also considering that the properties opposite may be demolished in the near future, it is considered that the development can sit in the proposed locality without undue impact. Furthermore, the scale proposed provides an appropriate level of accommodation for the businesses to run effectively at ground floor and the flats to be liveable at first floor and in the roofspace.

The building is proposed to be constructed in various materials, an engineering brick base to ground floor level with red brick above and a complimentary soldier course above and below first floor windows, while the first floor of the front elevation and the middle section of the northern elevation would be rendered. Quoin detailing is also proposed on major corners.

The Inspector stated, the building would apart from the pavilion stand alone and be slightly disconnected from the housing and commercial premises nearby. Furthermore, they stated that it's markedly different, open setting would draw a clear distinction between it and the existing built environment, while the courtyard arrangement and design detailing proposed, particularly the central glass element and pitched roof dormers, would add to its sense of individuality and distinctiveness.

The Inspector also stated that the proposal would not be overdevelopment, and although prominent in the streetscene, the building was not considered to appear oppressive or unduly dominant and, in the Inspector's opinion it would strike a satisfactory balance between the desirability of using previously development land efficiently and integrating new development with its surroundings. The contrast, the Inspector stated would serve to emphasise and announce the building's presence and function as a new hub of shops and services for the local community.

Having regard to the above it is considered that the proposal represents an acceptable and appropriately designed building for this locality that would be in keeping with its character and appearance and would not have a detrimental impact on the visual amenity of the streetscene. In addition, the development successfully contributes to an

attractive residential environment by virtue of its design, architectural style, height, size, scale, massing and materials. Therefore, the proposed development would comply with the provisions contained within PPS1 and UDP policy ENV3.1 'Development and the Environment'.

Impact of the economic development on Canklow

A PPS4 statement has been submitted as part of this application as the proposal involves introducing economic development in the form of a mini-market, a pharmacist, one small retail unit and a coffee shop into the ground floor of the development. The applicant has indicated that the small retail unit could potentially be used for an A2 use as well, however because the applicant has not got a final end user for the unit it is difficult at the present time for them to indicate what type of use within the A1 and A2 classification will occupy the building.

As mentioned previously, because there is no defined local centre in Canklow the applicant did not have to provide a sequential test within their statement. In terms of relevant policies within PPS4, EC10.2 and EC16.1 (d) are considered to be appropriate in this instance to assess the impact of the development on Canklow.

Policy EC10.2 of PPS4 sets out the criteria against which applications for economic development should be considered. EC10.2 (d) and (e) require consideration of the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives and the impact on local employment. Policy EC16.1 (d) talks about impact on trade in the wider area and current and future expenditure capacity.

With regard to the above, it was the original intention of the applicant to accommodate the various premises on the opposite side of Canklow Road, which were due to be demolished by Housing Market Renewal as part of a wider regeneration scheme for the Canklow area. However, due to funding cuts it appears as though the demolition scheme is unlikely to be finished in the near future and therefore the non-residential uses in the properties opposite are likely to remain whether occupied or not, although it should be noted that the applicant's proposals are not solely reliant on the scheme opposite going ahead.

The properties on the opposite side of the road include an off licence / grocery (use class A1), a medical centre (use class D1), a pharmacist (use class A1), two takeaways (use class A5), a corner shop (use class A1) and two vacant units, possibly with open A1 consents. Forward Planning are concerned that the introduction of additional A1 premises in this area would result in an over provision of local facilities that could be detrimental to social inclusion and cohesion and the scheme could potentially displace existing businesses and increase vacancies in this area.

Notwithstanding the above comments it is considered that the introduction of the coffee shop would be of benefit to the local area as it would provide a meeting place for local residents who currently do not have such a facility within walking distance and as there are no dental surgeries within the Canklow area the introduction of a dental practice will bring in much needed services that will help benefit the community of Canklow. Furthermore, the development is not solely reliant on the demolition of the premises on the opposite side of the road. The applicant has indicated that they have not advertised the small retail unit yet and are open to uses falling within either A1 or A2 in the Use

Classes Order. Accordingly, the proposed development could result in the introduction of a hairdressers, a post office, a bank, an estate agents, a sandwich shop, a dry cleaners or a travel agents in the small unit, all of which are not currently provided within the area and would add to the current economic uses. The proposal, if approved, would increase employment numbers albeit on a fairly modest scale.

It is also considered that this proposal will become the hub of Canklow village with the development offering various opportunities for local residents within walking distance and the mixture of retail, residential and commercial uses will turn this currently vacant and unattractive site into a visually attractive and vibrant area in Canklow.

It is therefore concluded that on balance the proposal would satisfy the relevant policies of PPS4 and the development would enhance and increase the current provisions within the Canklow area to the benefit of local residents.

Impact on the surrounding green space

To the south of the existing car park approximately 11 metres away there is a senior football pitch, to the north-west corner of the site there is a junior football pitch approximately 16 metres away from the building and to the west there is a MUGA approximately 14 metres away from the building. The football pitches are marked out and used at least once a week for organised football matches the rest of the week the large area of green space is used by local residents for recreational and leisure purposes.

The Council's Green Spaces department raised strong concerns about the previous and current development, the issues they have raised relate to the impact of the development on the surrounding leisure facilities.

The Inspector stated during the appeal relating to the previous application, which was for a similarly designed, sized and sited building, "As a result of the proposed building's height, proximity and orientation in relation to the MUGA, youth shelter, pavilion and playing field to the north, it would have some effect on the levels of sunlight reaching these facilities. However, in relation to the MUGA, youth shelter and pavilion, overshadowing from the building would be limited to the early hours of the morning. The nearest part of the playing field and football pitch to the north would receive some shadowing from mid-morning to mid-afternoon periods." The Inspector stated that the level of overshadowing would be acceptable, and even during professional matches they are sometimes played with part of the pitch in shadow and the extent of overshadowing likely would not spoil people's enjoyment of the playing field.

The Inspector further stated the presence of the proposed building would result in the MUGA, youth shelter and part of the pavilion being hidden from the nearest section of Canklow Road. They would be less visible than at present. Nonetheless, they would still be seen in some views from the road, particularly along its more northern stretch. In addition, the development itself would provide some surveillance over them in close quarters, from the car park and amenity area as well as bedroom and kitchen windows. It is not inevitable that the presence of the proposed building would lead to vandalism and anti-social behaviour. Nor is it probable, in this context, that it would encourage or increase such conduct to any material degree.

Although the Council's Green Spaces department have objected to the current scheme, it is considered that all the issues they have raised were assessed by the Inspector at the appeal stage of the previous development, which is similar to the current proposal. Therefore, given the Inspector's comments that are detailed above, it would be wholly unreasonable for the Council to refuse the scheme on the reasons outlined by the Green Spaces department, and could result in the Council being taken for costs during any subsequent appeal.

It is therefore considered that given the proposed development in terms of size, scale, height, and siting is the same as that approved by the Inspector, it would not result in material harm to the MUGA, youth shelter, playing fields and pavilion in terms of sunlight, vandalism and anti-social behaviour. As such it would not conflict with UDP policies HG1, HG5, ENV3.1 and ENV3.7 on this point. These seek to ensure that new development does not adversely affect local amenity or the quality of the environment, including in relation to the security of people and property, and do not allow development that is likely to give rise to nuisances.

Impact on the amenity of neighbouring residents

With regard to the impact of the development on the amenity of occupiers of residential properties directly opposite the application site, it is acknowledged that the dwellings directly opposite are of a two-storey nature but they do appear to have large floor to ceiling heights and large pitch roofs. Furthermore, because of the siting of the proposed building and its relationship with the dwellings opposite there are only 6 properties which would directly face the proposed building and the principal elevations of these 6 properties are approximately 20 metres from the front elevation of the proposed building, which is in compliance with the Council's adopted SPG 'Residential infill plots'. Therefore, it is considered that on the evidence outlined above the proposed development would not result in any direct overlooking or a loss of privacy to the occupiers of the properties adjacent or to the proposed occupiers of the proposed building from the properties adjacent.

In addition to the above it is considered that the proposed development by virtue of its size, scale, form, design and siting together with its relationship with neighbouring properties would not appear overbearing or oppressive when viewed from neighbouring properties. Furthermore, by virtue of its size, height, form, massing and siting together with the orientation of the site the development would not result in any overshadowing of neighbouring residential properties to such a degree that would be detrimental to their amenity.

The Council's Environmental Health department have indicated that there is potential for disamenity to nearby residential dwellings in relation to noise and dust during the construction phase. In order to combat this potential issue Environmental Health has recommended the addition of three conditions to help mitigate any potential noise and dust issues during the construction of the development.

Furthermore, it is acknowledged that the proposed uses at ground floor in particular the coffee shop and retail units could give rise to some disamenity that would affect the future occupiers of the proposed development above in terms of noise and general disturbance at unsocial hours. The applicant has not put forward any proposed hours of opening for the various units, therefore it is considered prudent to attach conditions for the opening hours of the non-residential units at ground floor. It is recommended that

the D1, A1, A2 and A3 premises shall not be open for patients and customers and shall not receive deliveries outside the following hours: 0800 to 2000 Mondays to Saturdays; and 0900 to 1600 Sundays and Bank Holidays.

Having regard to all of the above it is concluded that the proposed development would not result in a detrimental impact on the amenity of occupiers of neighbouring properties or the future occupiers of the proposed development.

Effect on the building's future occupiers in terms of noise and disturbance and outdoor space

It is noted that the development would be quite close to the playing fields, the MUGA and youth shelter. It is expected that those using these facilities would make some noise, especially when competitive sports are being played. It is possible that such noise may be made during later hours, particularly in the summer months. It is therefore probable that this would cause some disturbance to the building's future occupants.

However, any noise from youths and others would not be continuous. Even if footballs could be kicked to reach the building's walls and windows, it is unlikely that this would be a frequent occurrence and while those inside the building may be disturbed occasionally, it would not be a daily problem and the degree of annoyance caused would be significantly great so as to warrant a refusal of the scheme. Furthermore, those choosing to occupy the flats and commercial premises would do so in the knowledge of the building's relationship with the playing fields, MUGA and shelter.

In addition, although not a large area, the proposal includes some private outdoor space for the flat's occupiers. Whilst its size would limit the activities possible, it would be sufficient for a number of residents to sit and enjoy the outdoor environment. Moreover, the immediate proximity of the public open space and playing fields would be ideal for those residents seeking more energetic pursuits. The combination of the private and public areas available for use would amount to a very good level of amenity space provision.

It is therefore considered that the development would not result in material harm to the building's occupiers in terms of noise and disturbance and the level of outdoor space. The proposal would not conflict with UDP policies ENV3.1 and ENV3.7.

Highway issues

The current scheme has been amended so as not to include the car park adjacent the site, which is the ownership of the Council and managed by the Green Spaces department, who have indicated that this adjacent car park can be locked and unlocked to suit their operational needs and the needs of their customers.

Access to the application site will be via a new vehicular access to Canklow Road. The new access will require the removal of the existing traffic calming measures fronting the site. A draft scheme has been produced and agreed in principle by the applicant and the Council's road safety engineer. The draft scheme will require the removal of the chicane, the provision of speed humps, alterations to the existing pedestrian refuges and an amended white lining scheme. This will be conditioned accordingly and is considered an improvement in road safety terms. With regard to car parking provision,

the revised scheme now provides 14 no. car parking spaces in total (2 disabled) and will be shared between the flats and shops / businesses. The adjacent car park can also accommodate in excess of 20 no. cars, although this may not be available at all times, it would be available at peak times for people using the adjoining playing fields, particularly on Saturdays and Sundays. Some on street parking is also available in the area on neighbouring streets.

In addition, to the above and in response to comments made by the Inspector the Council can confirm that there have been no accidents in the past 5 years fronting the site.

Therefore, in light of the above and the comments made by the Inspector, the proposal, subject to conditions, would not give rise to any highway safety issues and the level of parking proposed within the site is acceptable.

Other Considerations

The applicant has indicated that they propose to use photovoltaic cells in the south facing roof slopes of the development to provide at least 10% of the energy required to power the units. The applicant has indicated that they propose to use either 40 conventional solar panels or solar tiles.

The use of renewable energy sources is welcomed and would satisfy the provisions of UDP policy UTL3.4 which states that there will be a presumption in favour of proposals for renewable energy sources. Given that no details have been provided in terms of whether panels or tiles will be used a condition shall be attached to ensure that the details are submitted to and approved by the Council.

Conclusion

Having regard to all of the above it is concluded that the proposed development would, if implemented, for the reasons outlined above represent an acceptable and appropriate addition to this area of the Borough that would be in full compliance with the guidance and requirements of the relevant national and local planning policies.

Therefore, in light of the above the proposed mixed-use development is recommended for approval subject to the recommended conditions.

RB2011/1296

Continuation of outline application with all matters reserved except for the means of access for a new community comprising residential (3890 units) commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, cultural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting) with variation to Conditions 5, 6, 17, 18, 29 (imposed by RB2008/1372) at Land off Orgreave Road Catcliffe for Harworth Estates.

Recommendation

A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the same obligations as was previously secured through Planning Permission RB2008/1372.

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

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:

Development Plan:

Local Planning Policy

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

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

Other relevant material planning considerations:

PPS1 'Delivering Sustainable Development' sets out the overarching planning policies on delivery of sustainable development through the planning system. Sustainable development is defined as the core principle underpinning planning and incorporates strong, vibrant and sustainable communities; protection and enhancement of the environment; prudent use of natural resources; and sustainable economic development.

PPS3 'Housing' was updated in November 2006 and encourages the creation of mixed communities of a variety of housing in terms of tenure, price and households. A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. When identifying previously developed land for housing development consideration has to be given to sustainability issues. Efficient use of land is also a key consideration and 30 dwellings per hectare net should be used as a national indicative minimum. Careful attention to design is fundamental to using land efficiently.

PPG13 'Transport' aims to increase the use of modes of transport other than the car, increase accessibility to jobs and services and reduce road traffic in the interests of sustainability and the environment.

For the following reasons:

The principle of the new community has been previously established under planning permission RB2008/1372. The changes to the Parameter Plans which incorporate the Phasing Plan, Density Plan and Land Use Plan are considered to be acceptable in terms of the phasing of the wider development, the reduced density of Phase 1a and the re-location of the 'Mixed Use Corridor' are relatively minor material amendments which will not result in a development that is substantially different from that already approved.

The proposal is considered to have an insignificant impact on the wider development and the application is recommended for approval, subject to the agreed variations, additional condition and other previously approved conditions.

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

Conditions & Reasons Imposed:

01

Before the commencement of the development of the exempt infrastructure, as identified on Parameter plan 13 'exempt infrastructure', details of the layout, scale, appearance and landscaping of the relevant development (herein referred to as the reserved matters) shall be submitted to and approved by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Reason

No details of the matters referred to having been submitted, they are reserved for the subsequent approval of the Local Planning Authority and to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

02

Before the commencement of the development of each development plot, details of the layout, scale, appearance and landscaping of the relevant development (herein referred to as the reserved matters) shall be submitted to and approved by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

Reason

No details of the matters referred to having been submitted, they are reserved for the subsequent approval of the Local Planning Authority and to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

03

Applications for the approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 30 (thirty) years from the date of this permission.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

04

The development hereby permitted shall be begun either before the expiration of 30 (thirty) years from the date of this permission, or before the expiration of 3 (three) years from the date of the last of the reserved matters to be approved, whichever is the later.

Reason

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

DESIGN CODE

05

Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the Waverley Revised Design and Access Statement and with the approved detailed Parameter Plans contained within the Masterplan Parameters Document listed under Condition 52, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

06

No development, except that associated with exempt infrastructure as identified on Parameter plan 13 'exempt infrastructure', shall take place in any of the geographical phases identified in the approved Parameter Plan 9 'Phasing' until there has been submitted to and approved in writing by the Local Planning Authority a design code (including a supporting plan) for the geographical phase in question. The design codes for the various geographical phases shall be in accordance with the principles and

parameters described and illustrated in the Waverley Revised Design and Access Statement listed under Condition 52, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

07

The supporting plan submitted with the design code for each geographical phase as approved on Parameter Plan 9 'Phasing' and referred to in condition 6 above shall be the regulating plan for the associated design code. The design code for each geographical phase shall include codes for all matters listed below:

- Sustainable Design and Construction Principles
- Climate change mitigation and adaptation
- Character Areas
- Location of Energy Centres
- Block types and uses
- Building Heights
- Density
- Relationship between proposed Landscape and Built Form
- Means of enclosure
- Street Types and Street Materials
- Street Tree Planting
- Feature Spaces (including squares, parks and play areas)
- Hard and Soft Landscape Treatments
- Advanced Structure Planting and phasing of landscape implementation
- Planting character and establishment considerations
- Planting stock sizes including use of semi-mature tree planting
- Security principles
- Affordable Housing

Reason

To ensure high standards of urban design and comprehensively planned development and designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

08

Applications for the approval of Reserved Matters shall be in accordance with the requirements of the approved Design Code for that geographical phase of development unless material considerations indicate otherwise.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and

ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

USES

09

Floorspace within Use Classes A1, A2, A3, A4 and A5 hereby approved shall not exceed 5,400 sqm. The Use Classes are those set out in the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason

The outline planning application proposed 5,400 sqm of floorspace within use classes A1, A2, A3, A4 and A5, which the Council considers sufficient to achieve the objectives of policy RET6 'Local Shopping Provision' of the adopted Rotherham UDP (adopted June 1999).

10

No development, except that associated with exempt infrastructure, shall take place in any of the geographical phases identified in the approved Parameter Plan 9 'Phasing' until there has been submitted to and approved in writing by the Local Planning Authority a plan detailing the quantum of floorspace and timescales for delivery of the A1, A2, A3, A4 and A5 use classes for the geographical phase in question. The development shall thereafter be carried out in accordance with the approved phasing plan.

Reason

In order to ensure that sufficient floorspace is provided to accommodate a range of retail, and leisure uses needed to serve a sustainable community in accordance with Planning Policy Statement 3 'Housing'.

11

A minimum of 1,300 sqm and a maximum of 1,900 sqm of gross retail floorspace (Class A1) shall be provided within the development.

Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Planning Policy Statement 4 'Planning for Sustainable Economic Growth'.

12

No more than 1,300 sqm of gross A1 floorspace shall be provided in any one unit.

Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Planning Policy Statement 4 'Planning for Sustainable Economic Growth'.

13

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking or re-enacting that Order, there shall be no change of use between Use Classes A2, A3, A4, A5 to a use within Class A1 without prior planning permission.

Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Planning Policy Statement 4 'Planning for Sustainable Economic Growth'.

14

The hotel shall not be first open to trade until phase 4 of the development as identified in the approved Parameter Plan 9 'Phasing' unless material considerations indicate otherwise.

Reason

In order to ensure that the development is phased properly to allow the site to be developed for mixed use community.

AFFORDABLE HOUSING

15

Prior to the construction of development, except that associated with exempt infrastructure, within each geographical phase as identified on Parameter Plan 9 'Phasing', an affordable housing schedule for that geographical phase, shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing schedule shall show the distribution of affordable dwellings across the phase.

Reason

To ensure that the distribution of affordable housing assists in the creation of an inclusive mixed community in accordance with the provisions of PPS3.

16

The submission of each Reserved Matters application for residential development shall show the number of affordable dwellings to be provided in accordance with the affordable housing schedule for the relevant phase within which the application falls, together with the mix of dwellings in terms of the number of bedrooms and the proportion of houses and flats, broken down between social rented affordable housing units and shared ownership units. Affordable Housing shall thereafter be provided in accordance with the approved Reserved Matters.

Reason

To ensure that the distribution of affordable housing assists in the creation of an inclusive mixed community in accordance with the provisions of PPS3.

SUSTAINABILITY AND ENERGY

17

Each reserved matters application for the first 915 dwellings shall be accompanied by a scheme detailing how the dwellings applied for shall achieve at least Level 4 of the

Code for Sustainable Homes. The development shall thereafter be carried out in full accordance with the approved scheme.

Reason

To achieve improved energy conservation and the protection of environmental resources.

18

With the exception of the first 915 dwellings no residential development shall take place until the Local Planning Authority has been provided with, and approved in writing, a Pre-Assessment carried out by a Building Research Establishment (BRE) Licensed Code for Sustainable Homes Assessor, proving that each dwelling proposed as part of the reserved matters application in question has been designed to achieve at least Level 4 of the Code for Sustainable Homes (or equivalent level of such national measure of sustainability for house design that replaces the Code). This information shall be submitted to and approved as part of the submission of each reserved matters application that includes residential development. Each residential building, of which the reserved matters application relates, shall then be the subject to a post completion check by the licensed assessor (after the Design Stage report has been carried out and an interim certificate obtained) and issue of a final Code certificate of compliance prior to its first occupation.

Reason

To achieve improved energy conservation and the protection of environmental resources.

19

The 18,698 square metres of A1, A2, A3, A4, A5, B1(a), C1, D1 and D2 floorspace hereby approved shall be designed to achieve a BREEAM Very Good rating as a minimum. Relevant applications for approval of Reserved Matters shall be accompanied by a BREEAM Report which shall be submitted to and approved in writing by the Local Planning Authority. The buildings shall subsequently be developed in accordance with the approved details.

Reason

In order to secure a sustainable development in accordance with Planning Policy Statement 1 'Creating Sustainable Communities'.

20

Relevant reserved matters application shall be accompanied by a report which shall be submitted to and approved by the Local Planning Authority setting out the measures to incorporate green roofs in the design as part of proposals for storm water retention and attenuation, energy conservation and biodiversity gain. Thereafter the development shall be implemented in accordance with the approved details.

Reason

In order to secure a sustainable development in accordance with Planning Policy Statement 1 'Creating Sustainable Communities'.

GROUNDWATER / CONTAMINATION AND GROUND CONDITIONS

21

No development shall be commenced within each geographical phase as identified in Parameter Plan 9 'Phasing' until the Global Validation Report for that phase has been submitted to and approved in writing by the Local Planning Authority. This report will cover all the following issues:

1. Investigation and geotechnical stability assessment of opencast backfill together with any special requirements to protect buildings and infrastructure against adverse settlement.
2. Investigation of possible shallow mine workings outside the area of opencast workings together with any mitigation measures required to protect overlying development.
3. Investigation of any mine entries outside the area of opencast workings together with any mitigation measure required.
4. Human health risk assessment together with any required mitigation.
5. Groundwater risk assessment and any on-going groundwater monitoring required by the environment agency.
6. Ground gas risk assessment and any methods required to prevent ground gas ingress into buildings.

Reason

To protect the water environment by ensuring that the site is remediated to an appropriate standard, to ensure that adequate measures have been undertaken to mitigate against contaminated land and to ensure that the site is capable of withstanding development in accordance with UDP Policies ENV4.3 'Unstable Land' and ENV4.4 'Contaminated Land' and PPS23 'Planning and Pollution Control and PPG14 'Development on Unstable Land'.

22

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

Reason

To protect the water environment by ensuring that the site is remediated to an appropriate standard.

BIODIVERSITY

23

Within 5 years of the date of this permission or prior to the first occupation of the first dwelling, whichever is the sooner, an Ecological Management Strategy incorporating a Biodiversity Action Plan and Wildlife Management File shall be submitted to and approved in writing by the Local Planning Authority. Information to be included shall consist of the following:

- The Wildlife Management File – providing management standards, appropriate assessment requirements and methodology, legal constraints and compliance, responsibilities for implementation, monitoring and consultation.

- Site Biodiversity Action Plan – providing audit of habitats and species within the site or with the potential to access the site, aims and targeted objectives for protection and enhancement of the site's biodiversity interest.
- Management Activity Plans – providing detailed annual management action plans, annual monitoring proposals, phased development proposals and to detail the cross-over of activity planning from the LDA Establishment Management Plan to the long-term management plan.
- Plans illustrating coverage of management responsibilities, habitat management compartments, key management objectives and development phasing.
- Data Agreement – providing commitment to submit monitoring data to the Rotherham Biological Records Centre in an appropriate format.

Reason

To provide good quality and ecologically rich habitats and to mitigate for disturbance of habitats and protect species using them in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.

MANAGEMENT PLAN

24

A Green Infrastructure Delivery Plan shall be submitted to and agreed in writing by the Local Planning Authority within 5 years of the grant of this permission or upon the first occupation, whichever is sooner. The Delivery Plan shall be produced for the whole application site for a period of 5 years from completion of the final dwelling. The Plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

The Delivery Plan shall demonstrate how public realm and green infrastructure management will be delivered to a high standard of safety and quality across the site. Within this plan site management objectives will be identified (these will include but not be limited to landscape, ecology, visitor and recreational management), potential conflicts arising from site management and their resolution and the management, and maintenance regimes required to achieve the objectives given. The delivery plan shall set standards, and schedule work in order to ensure the safe and managed use of the site, the protection of wildlife and supporting habitat, and to promote the continuity of effective management throughout development phases.

Reason

To ensure that the future management maintenance repair and upkeep of the development is delivered to an appropriately high standard of safety and quality across the whole development.

LANDSCAPE

25

Prior to the commencement of any development within each geographical phase as identified on Parameter Plan 9 'Phasing', details of a phased scheme of advance planting to provide screen planting to site boundaries (wherever relevant) and structure planting along access roads and associated with key entrances and junctions shall be submitted to and approved in writing by the Local Planning Authority. The said planting shall thereafter be implemented in accordance with the approved details.

Reason

To ensure an appropriate standard of visual amenity in the local area.

HIGHWAYS

26

No more than 180 No. dwellings shall be occupied on site until the proposed improvements to A630 Parkway/B6533 Poplar Way/Europa Way junction, indicated on plan No. 22103701/06, have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety

27

No more than 550 No. dwellings shall be occupied on site until the proposed improvements to B6066 Highfield Spring and to B6533 Poplar Way/B6066 Poplar Way/B6066 Highfield Spring junction, indicated on plan No. PO-CE-WYG-01-SK40 have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety.

28

No more than 550 No. dwellings shall be occupied on site until the proposed improvements to B6066 Highfield Spring/Brunel Way (AMP North) as indicated on plan No. PO-CE-WYG-01-SK41 have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety.

29

The development shall not be commenced until details of the proposed improvements to B6533 Poplar Way/B6066 Orgreave Road, as indicated in draft form on plans Nos. H-PL-09 and PO-CE-WYG-PL-09 have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented prior any vehicular use of the southern arm of the junction, other than for construction purposes.

Reason

In the interests of highway safety.

30

No more than 1880 No. dwellings shall be occupied on site until the proposed improvements to B6066 Highfield Spring/B6066 Highfield Lane, as indicated on plan No. PO-CE-WYG-01-SK17 have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety.

31

No more than 550 No. dwellings shall be occupied on site until the proposed improvements to B6066 Main Street/B6067 Treeton Lane, Catcliffe, as indicated on plan No. PO-CE-WYG-01-SK28, have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority

Reason

In the interests of highway safety.

32

No more than 1700 No. dwellings shall be occupied on site until the proposed improvements to B6066 Highfield Lane/Orgreave Lane/Rotherham Road junction, as indicated on plan No. PO-CE-WYG-01-SK29, have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety.

33

No more than 370 No. dwellings shall be occupied on site until the proposed improvements to B6200 Retford Road/Rotherham Road junction as indicated on plan No. PO-CE-WYG-01-SK30, have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway safety.

34

No more than 550 No. dwellings shall be occupied on site until the proposed improvement to B6533 Poplar Way between Highfield Spring and Parkway junction to a dual carriageway as indicated on plan No. SK-J2/3-M1 Rev P2 submitted with planning application RB2004/0046 has been implemented in accordance with details which shall have been submitted to and approved by the Local Planning Authority unless already implemented as part of an adjacent development.

Reason

In the interests of highway safety

35

No more than 2,500 No. dwellings shall be occupied until a scheme to widen parts of the circulatory carriageway of Junction 33, M1 Motorway, has been implemented in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency. The required widening shall be as follows:

- To widen from two lanes currently to three lanes between the northbound off-slip and the northbound on-slip of the M1 motorway; and
- To widen from two lanes currently to three lanes between the southbound off-slip and the southbound on-slip of the M1 motorway.

Reason

In the interests of highway safety

36

If, 24 months after the occupation of the first dwelling, the proposal to implement a Bus Rapid Transit scheme to the site is not committed then a scheme to enhance bus services in the area shall be submitted to and agreed in writing by the Local Planning Authority together with a programme for implementation.

Reason

In order to promote sustainable transport choices.

37

A detailed assessment shall be submitted to and approved by the Local Planning Authority on the Orgreave Lane / Retford Road junction to determine if mitigation of traffic signal operation is required. Any mitigation identified shall thereafter be carried out within a timescale to be agreed with the Local Planning Authority.

Reason

In the interests of highway safety.

NOISE

38

Each reserved matters application shall be accompanied by an appropriate noise assessment to ensure the amenity of current and future residents in accordance with BS4142 and PPG24.

Reason

To protect the amenity of future residents in accordance with PPG24.

39

Throughout the construction phases of development and except in cases of emergency, no operation that is likely to give rise to noise nuisance or loss of amenity shall take place on site other than between the hours of 0730 to 1800 Monday to Friday and between 0800 to 1300 on Saturdays.

Operations which give rise to noise nuisance shall not be carried out on Sundays, Public Holidays or outside normal weekday working hours. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason

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

40

Throughout the construction phases of development all machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the best practicable means shall be employed to prevent or

counteract the effects of noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities.

Reason

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

41

Throughout the construction phases of development all vehicles reversing warning alarm systems shall be operated in accordance with a specification submitted to and agreed in writing by the Local Planning Authority prior to commencement of development. At all times, effective means shall be employed to prevent and counteract the effects of audible warning alarms to nearby noise sensitive receptors. No audible warning alarm shall exceed the ambient noise level in the working location by more than 5dBA.

Reason

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

42

Prior to the commencement of site operations and development the operator shall nominate a qualified person to be responsible for immediate investigation of complaints. Prior to the commencement of the operations the Local Planning Authority shall be informed of the appointment, and the arrangements to be employed shall be agreed. A log of all complaints shall be kept and made available on request to the Local Planning Authority.

Reason

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

DUST

43

At all times during the carrying out of development authorised or required under this permission, effective means shall be employed to minimise dust. Such measures shall include water bowsers, sprayers whether mobile or fixed, or similar equipment, upward pointing exhausts, wind fences, landscaping bunds, stockpile dampening, aerodynamic shaping of stockpiles to prevent dust lift off, regulating the speed of vehicles, hard covering of roadways and other steps as are appropriate.

Reason

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

44

At such times during construction of development 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, overburden and other dust raising materials shall be temporarily curtailed until

such time as the site/weather conditions improve such as to permit a resumption of the operations.

WHEEL WASHING

45

Throughout the construction phases of development the operator shall install and thereafter utilise as appropriate, wheel washing facilities on the site for the duration of the construction. Prior to its installation on site, full details of its specification and siting shall be submitted to and agreed in writing with the Local Planning Authority.

Reason

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

DRAINAGE AND FLOOD RISK

46

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by White Young Green dated 06/10/09 including the following specific measures detailed within the Flood Risk Assessment:

- 1) Areas of the site covered by Flood Zones 2 and 3 are developed with acceptable water compatible development only, as defined by Table D2 of PPS25 (as stated on p.18 of the FRA)
- 2) Finished floor levels are set at a minimum of 150mm above adjacent finished ground levels (as stated on p.18 of the FRA)

Reason

To reduce the impact and risk of flooding on the proposed development and future occupants.

47

The development hereby permitted shall not be commenced until such time as details of potential overland flood routes through the site (detailed flood routes) have been submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall include details of the overland flood routes for the geographical phase in question and a scheme detailing how safe access and egress within and to the outside of the site during a flood event will be achieved.

Thereafter the scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason

To reduce the impact and risk of flooding on the proposed development and future occupants. To ensure safe access and egress from the site.

48

No development within each geographical phase as identified in Parameter Plan 9 'Phasing' except that associated with the exempt infrastructure and site preparation works, shall take place or discharge to a drainage system, until the detailed design of the Surface Water Drainage scheme (including appropriate SUDS), including all relevant flood risk assessments within the Waverley development, have been submitted to and approved in writing by the Local Planning Authority. The scheme as approved for each geographical phase of development shall be in accordance with the Outline Surface Water Strategy and the Flood Risk Assessment submitted with the application in October 2009 and shall be implemented in accordance with the approved details prior to the construction of 80% of dwellings within that development phase.

The scheme shall also include the following:

1. Details of the development surface water drainage network, which shall include:
 - the piped drainage network and open watercourses will drain to the attenuation reservoirs.
 - the reservoirs will limit discharge to the River Rother at the maximum rate of 5 litre per second per hectare.
 - the open watercourses shall be designed for the 1 in 100 year return period over the critical storm duration (plus an allowance of 30 % for climate change) and 600 mm freeboard for each watercourse.
 - the piped drainage network will be designed so that there is no flooding during a 1 in 30 year storm over the critical storm duration
 - the water velocity within the open watercourses shall be a maximum of 3 metres per second, unless otherwise agreed by the Environment Agency.
 - Appropriate SUDS will be incorporated into the surface water drainage scheme within the site.
2. Plans to show the catchment areas for surface water runoff within the site and surrounding areas, for each phase of the development (to ensure that there is adequate capacity for discharge of surface water runoff within each section of the drainage system, during and after completion of the development).
3. Details of how the current restoration drainage will fit within the proposed development drainage plans and the Masterplan, in particular Handsworth Beck and drainage channels C and C2.
4. Details of how the scheme shall be maintained and managed during and after the completion of the development. This should also include details of satisfactory easement strips along the piped network and open watercourses, to allow access for maintenance.

Reason

To prevent the increased risk of flooding and ensure future maintenance of the surface water drainage system both within each phase of development and within the Waverley development.

PUBLIC RIGHTS OF WAY

49

No development within each geographical Phase, as identified in Parameter Plan 9 'Phasing' except that associated with exempt infrastructure and site preparation works, shall take place or discharge to a drainage system until a scheme for foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The foul water drainage shall be implemented in accordance with the approved scheme.

Reason

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

50

All public rights of way proposed throughout the site shall be implemented in accordance with the Public Rights of Way Action Plan and suitable access barriers and fencing shall be agreed in writing to Local Planning Authority and be installed on the end of all path links.

Reason

To ensure adequate pedestrian and cycle links and recreational use throughout the site.

WASTE MANAGEMENT

51

The Design Code as required by Condition 7 of this approval shall incorporate a waste and recycling storage plan, including details of recycling facilities for those items not currently collected at source such as glass and plastic, identifying the facilities to be provided to serve that phase of development for each geographical phase of development as identified in Parameter Plan 9 'Phasing'. Thereafter waste and recycling facilities shall be provided in accordance with the approved details before the relevant buildings are occupied.

Reason

To ensure that the development provides adequate facilities for waste collection and promotes recycling in accordance with PPS1.

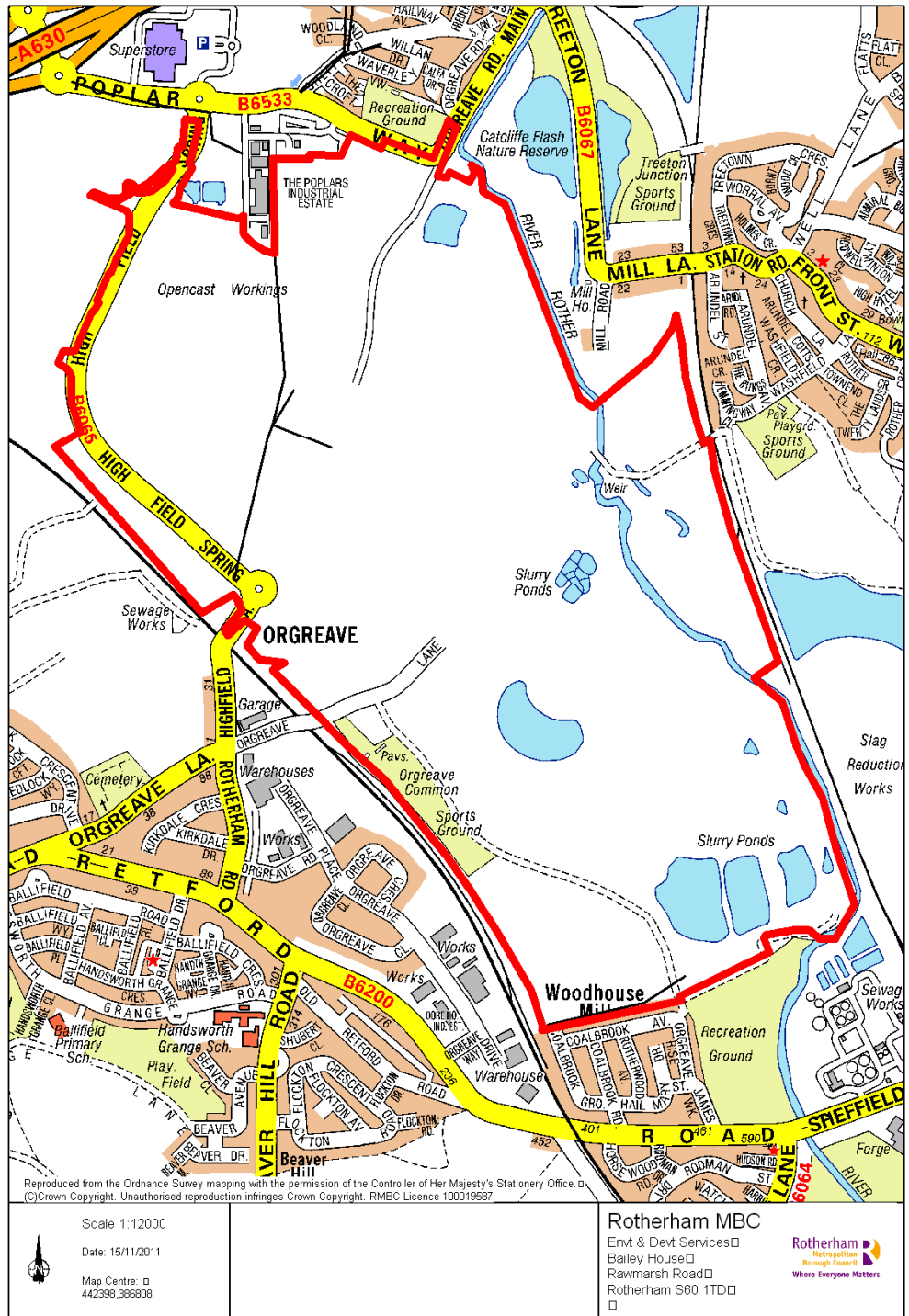
52

The development hereby permitted shall be carried out in accordance with the following approved documents and plans:

- Waverley Design and Access Statement (October 2009)
- Masterplan Parameters Document (August 2011)

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).



Background

The planning history of the site relates to the following:

R93/1058P: Extraction of coal by opencast methods together with all ancillary operations (car park, plant yard, temporary offices, water treatment areas and sewage treatment facilities), the creation and use of waste disposal facility for dealing with contaminated and landfill waste from within proposed site, the construction of a new highway between B6066 Orgreave railway bridge and B6533 Homeworld roundabout, the carrying out of tip washing for coal recovery and the restoration of the area including the area known as Woodhouse Mill tip.

- GRANTED CONDITIONALLY on 21/12/94

RB2003/1640: Continuation of opencast coal and reclamation operations without compliance with condition 2 of planning permission R93/1058P dated 21/12/94, together with revisions to approved restoration contours.

- GRANTED CONDITIONALLY on 01/07/04

RB2005/1236: Application under section 73 for the continuation of opencast coal and reclamation operations, without compliance with condition No 3 (Restoration/landscaping/future management/aftercare, details to be submitted for approval) and No 47 (Details of trees, shrubs and hedgerows to be submitted) imposed by RB2003/1640 to allow details to be submitted before 1st July 2006.

- GRANTED CONDITIONALLY on 09/09/05

RB2006/2197: Application for variation to condition 2 (details of restoration/landscaping to be submitted within 12 months) & condition 3 (details of trees/shrubs/hedgerows to be submitted within 12 months) imposed by RB2005/1236 and variation to condition 55 (details of water buoy & impact on River Rother to be submitted within 24 months) imposed by RB2003/1640 to allow the details to be submitted by September 2007.

- GRANTED CONDITIONALLY on 13/09/05

RB2007/2205: Application to extend the time period for completion of the restoration of the site (non-compliance with condition 1 of RB2003/1640 which required completion by May 2008) to May 2009.

- GRANTED CONDITIONALLY on 07/02/08

RB2008/1372: Outline application and details of access for a new community comprising 3890 residential units, including 973 affordable units, two primary schools, offices/financial services (400 sq.m), food store (1500 sq.m), pubs, bars, restaurants & cafes, small shops, health centre, community centre, gym, sailing club, hotel, public open space and associated infrastructure including combined heat and power generation plant and construction of roads, cycleways, footpaths and bridleway.

- GRANTED CONDITIONALLY on 16/03/2011

RB2008/1918: Application to extend the time period for completion of the restoration of the site (variation of condition 1 imposed by RB2007/2205 which required completion by 15 May 2009) to 31 December 2010.

- GRANTED CONDITIONALLY on 19/03/2009

RB2010/1357: Application to extend the time period for completion of the restoration of the site (Variation of Condition 1 imposed by RB2008/1918 requiring completion by 31 December 2010) to 31 December 2013.

- GRANTED CONDITIONALLY on 05/09/2011

Environmental Impact Assessment

The proposed development falls within the description contained at paragraph 10 (b) of Schedule 2 to the 1999 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Borough Council as the relevant 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 authority has adopted the opinion that the development for which planning permission is sought is not EIA development as defined in the 1999 Regulations.

Site Description & Location

The site comprises approximately 256ha of land formerly used for open-cast mining and other industries. It is bounded to the north by the developing industrial areas of the Advanced Manufacturing Park and Highfield Commercial, to the east by the River Rother, to the south the Coalbrook estate and to the west the Sheffield to Worksop railway line.

Proposal

Members will recall that planning permission was granted in April 2011 for a new community comprising 3890 residential units, two primary schools, offices/financial services, food store, bars, restaurants & cafes, small shops, health centre, community centre, gym, sailing club, hotel, public open space and associated infrastructure including combined heat and power generation plant and construction of roads, cycleways, footpaths and bridleways.

This current application, relates to the variation of 5 of the conditions attached to this permission and the addition of an extra condition. The primary purpose of the variation has arisen from a need by the applicants to change the phasing of the development which would result in the first phase of housing taking place at the south-western end of the site, to the north of Highfield Spring. To illustrate this, a revised parameters document has been submitted as part of this application to reflect the proposed change in phasing.

An additional condition is also required to tie the previously approved Design and Access Statement and the revised Parameters Document to this permission should Members be mindful to approve it.

Development Plan Allocation and Policy

UDP Policies

The northern area of the site is allocated for Industrial and Business Use. The central part is 'white land' i.e. unallocated within the UDP and the southern area is within the Green Belt. The application therefore shall be assessed against the relevant UDP Policies which include the following:

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

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

Other Material Considerations

PPS1 'Delivering Sustainable Development' sets out the overarching planning policies on delivery of sustainable development through the planning system. Sustainable development is defined as the core principle underpinning planning and incorporates strong, vibrant and sustainable communities; protection and enhancement of the environment; prudent use of natural resources; and sustainable economic development.

PPS3 'Housing' was updated in November 2006 and encourages the creation of mixed communities of a variety of housing in terms of tenure, price and households. A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. When identifying previously developed land for housing development consideration has to be given to sustainability issues. Efficient use of land is also a key consideration and 30 dwellings per hectare net should be used as a national indicative minimum. Careful attention to design is fundamental to using land efficiently.

PPG13 'Transport' aims to increase the use of modes of transport other than the car, increase accessibility to jobs and services and reduce road traffic in the interests of sustainability and the environment.

Publicity

The proposal was advertised in the press, on site and via letters to adjacent occupants. No representations have been received.

Consultations

Transportation Unit raise no objections to the proposed variation of conditions.

Environmental Health do not wish to comment on the application.

Ecology raise no objections to the proposed variation of conditions.

Landscape raise no objections to the proposed variation of conditions.

Highways Agency raise no objections to the proposal subject to the re-imposition of conditions attached to RB2008/1372.

Environment Agency do not wish to comment on the application.

Yorkshire Water do not raise any objections to the proposal subject to the re-imposition of conditions attached to RB2008/1372.

SYLTE raise no objections to the proposals and recognise the positive impacts that these developments will have in South Yorkshire.

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.

Planning permission was granted for a new community on 16 March 2011 (ref: RB2008/1372). The planning permission was subject to a number of conditions including the following:

- Condition 5
Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the Waverley Revised Design and Access Statement (October 2009) and with the approved detailed Parameter Plans (2009), unless otherwise agreed in writing by the Local Planning Authority.
- Condition 6
No development, except that associated with exempt infrastructure as identified on Parameter plan 13 'exempt infrastructure', shall take place in any of the geographical phases identified in the approved Parameter Plan 9 'Phasing' until there has been submitted to and approved in writing by the Local Planning Authority a design code (including a supporting plan) for the geographical phase in question. The design code shall be approved before the submission of applications for the approval of reserved matters within that geographical phase (excluding applications relating to exempt infrastructure works). The design codes for the various geographical phases shall be in accordance with the principles and parameters described and illustrated in the Waverley Revised Design and Access Statement (July 2009), unless otherwise agreed in writing by the Local Planning Authority.
- Condition 17

Each reserved matters application within geographical phases 1a and 1b as identified on the phasing plan in the revised Energy Strategy (October 2009) shall be accompanied by a scheme detailing how the dwellings applied for shall achieve at least Level 4 of the Code for Sustainable Homes. The development shall thereafter be carried out in full accordance with the approved scheme.

- Condition 18

With the exception of the 915 dwellings that comprise phase 1a and 1b as identified on the phasing plan in the revised Energy Strategy (October 2009) no residential development shall take place until the Local Planning Authority has been provided with, and approved in writing, a Pre-Assessment carried out by a Building Research Establishment (BRE) Licensed Code for Sustainable Homes Assessor, proving that each dwelling proposed as part of the reserved matters application in question has been designed to achieve at least Level 4 of the Code for Sustainable Homes (or equivalent level of such national measure of sustainability for house design that replaces the Code). This information shall be submitted and approved as part of the submission of each reserved matters application that includes residential development. Each residential building, of which the reserved matters application in question relates, shall then be the subject to a post completion check by the licensed assessor (after the Design Stage report has been carried out and an interim certificate obtained) and issue of a final Code certificate of compliance prior to its first occupation.

- Condition 29

The development shall not be commenced until details of the proposed improvements to B6533 Poplar Way/B6066 Orgreave Road, as indicated in draft form on plans Nos. H-PL-09 and PO-CE-WYG-PL-09 have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented prior to the first occupation of any dwellings.

Since the approval of RB2008/1372, Harworth Estates have been progressing proposals for the first phase of development and as a consequence three reserved matters applications for a total of 260 residential units were submitted in October 2011 and are currently under consideration. These proposals will form Phase 1A of the development and will be in accordance with the approved Design Code for this phase which Members will be aware of following its presentation to Board in September 2011.

In order to bring forward the delivery of this first phase of housing, Harworth Estates require variations to the five conditions listed above. The applicant's agents have stated in their supporting documents that the need for the variations arise principally from a change in the phasing of the development which would result in the first phase of housing taking place at the south-western end of the site, to the north of Highfield Spring and immediately to the east of the Highfield Commercial site as opposed to the area directly adjacent to Poplar Way as identified in the approved phasing plan. This change in phasing has arisen as Harworth Estates consider the site adjacent to the Highfield Commercial site to be more attractive to the market and therefore by bringing it forward first will ensure the commencement of the wider new community development. It is also proposed to slightly decrease the density of the development in Phase 1a from 55-75 dwellings per hectare to 35 dwellings per hectare which is reflected in the amended density plan.

The main considerations in the determination of this application therefore relate to whether the proposed amendments to the 5 conditions listed above and the addition of a separate condition will significantly alter the previously approved scheme or affect the validity of the outline planning permission.

In this respect the main considerations in the determination of this application relate to the following:

- Impact of amending the phasing of development;
- Impact of amending the density of Phase 1a;
- Implications of adding a further condition.

Implications of amending the phasing of development

A phasing parameter plan was approved as part of the outline planning application which illustrated that development would commence on the northern side of the site, closest to Catcliffe. The second phase would then continue in a southerly direction towards the reservoirs and along the realigned Highfield Lane area. Whilst the final two stages would complete the urban waterfront area, before finalising the build out in the area adjacent to the existing Sheffield to Lincoln railway line and the south western element of Highfield Spring.

As set out in the preceding paragraphs, it is now proposed to commence the first phase of housing (Phase 1a) at the south-western end of the site, immediately to the east of the Highfield Commercial site with the remainder of this phase proceeding north easterly towards Poplar Way. Phases two and three have also been revised and are now located to the south-east of the realigned Highfield Lane, extending as far south as the waterfront area with the final phase being split between two areas, the first being adjacent to the railway line and the remaining adjacent to the existing Foers site.

As a consequence of commencing development adjacent to the Highfield Commercial site, minor amendments to the land use parameters plan are also required, which principally relate to the relocation of the 'Mixed Use corridor' closer to the proposed Park and Ride facility. The principles of the previously approved development are not undermined by this amendment, indeed by relocating it closer to the park and ride facility may improve the vibrancy of this area through the interaction of the two uses.

A further consequence of amending the phasing of development relate to the requirement to amend condition 29 which refers to highway improvements to the B6533 Poplar Way and B6066 Orgreave Road prior to the occupation of the first dwelling. These works were required to facilitate the access into the site from Orgreave Road/Poplar Way when the first phase of development was to commence in this area. As this is no longer the case, the highway improvement works are no longer required prior to the occupation of the first dwelling, instead it is recommended that the condition is amended to require the submission of the details of the proposed improvements prior to commencement of development and its implementation prior to any vehicular use. This amendment reflects the revised location of phase 1a of the development and will not have a detrimental impact on highway safety or on the free flow of traffic.

Impact of amending the density of Phase 1a

An amendment to the proposed density of Phase 1a of the development is also proposed which is reflected in the submitted amended density plan. The outline permission for the new community was accompanied by a parameters document illustrating the density of each phase. This stipulated that the density in this area would be in the region of 55-75 dwellings per hectare, which reflected the fact that the 'mixed use corridor' was located within the area now known as Phase 1a. The proposed amended density for this area has now decreased to 35 dwellings per hectare, however as the mixed use corridor is simply to be relocated, these higher densities will be achieved within later phases of the development and the proposal to reduce the density in Phase 1a will not have a detrimental impact on the delivery of dwellings within the wider new community.

Additionally, the Government has recently omitted the minimum density required for development sites in the revised PPS3 'Housing'; however there is still a desire to encourage well designed residential developments that are built in the right location and ones which will enhance the quality and character of the area. In this regard it is considered that the reduction in density will not be detrimental to the provisions of PPS3, nor will it have a long term detrimental impact on the character of the wider development site. For these reasons the proposed reduction is considered to be acceptable.

Having had regard to the above it is considered that the wording of the conditions below are acceptable and will not undermine the principles of the approved outline planning permission:

05

Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the Waverley Revised Design and Access Statement and with the approved detailed Parameter Plans contained within the Masterplan Parameters Document listed under Condition 52, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

06

No development, except that associated with exempt infrastructure as identified on Parameter plan 13 'exempt infrastructure', shall take place in any of the geographical phases identified in the approved Parameter Plan 9 'Phasing' until there has been submitted to and approved in writing by the Local Planning Authority a design code (including a supporting plan) for the geographical phase in question. The design codes for the various geographical phases shall be in accordance with the principles and parameters described and illustrated in the Waverley Revised Design and Access Statement listed under Condition 52, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

17

Each reserved matters application for the first 915 dwellings shall be accompanied by a scheme detailing how the dwellings applied for shall achieve at least Level 4 of the Code for Sustainable Homes. The development shall thereafter be carried out in full accordance with the approved scheme.

Reason

To achieve improved energy conservation and the protection of environmental resources.

18

With the exception of the first 915 dwellings no residential development shall take place until the Local Planning Authority has been provided with, and approved in writing, a Pre-Assessment carried out by a Building Research Establishment (BRE) Licensed Code for Sustainable Homes Assessor, proving that each dwelling proposed as part of the reserved matters application in question has been designed to achieve at least Level 4 of the Code for Sustainable Homes (or equivalent level of such national measure of sustainability for house design that replaces the Code). This information shall be submitted to and approved as part of the submission of each reserved matters application that includes residential development. Each residential building, of which the reserved matters application relates, shall then be the subject to a post completion check by the licensed assessor (after the Design Stage report has been carried out and an interim certificate obtained) and issue of a final Code certificate of compliance prior to its first occupation.

Reason

To achieve improved energy conservation and the protection of environmental resources.

29

The development shall not be commenced until details of the proposed improvements to B6533 Poplar Way/B6066 Orgreave Road, as indicated in draft form on plans Nos. H-PL-09 and PO-CE-WYG-PL-09 have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented prior any vehicular use of the southern arm of the junction, other than for construction purposes.

Reason

In the interests of highway safety.

Imposition of additional condition

In order to tie the approved Design and Access Statement and the proposed Parameter Plans to this potential approval it is considered that an additional condition is required. The condition is set out below and requires the development to be carried out in accordance with the aforementioned documents:

52

The development hereby permitted shall be carried out in accordance with the following approved documents and plans:

- Waverley Design and Access Statement (October 2009)
- Masterplan Parameters Document (August 2011)

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with policies ENV3.1 'Development and the Environment' and ENV3.2 'Minimising the Impact of Development' of the adopted Rotherham UDP (adopted June 1999).

Conclusion

The principle of the new community has been previously established under planning permission RB2008/1372. The changes to the Parameter Plans which incorporate the Phasing Plan, Density Plan and Land Use Plan are considered to be acceptable in terms of the phasing of the wider development, the reduced density of Phase 1a and the re-location of the 'Mixed Use Corridor' are relatively minor material amendments which will not result in a development that is substantially different from that already approved.

The proposal will not have an impact on the wider development and the application is recommended for approval, subject to the agreed variations, additional condition and other previously approved conditions.

RB2011/1364

Outline application for the reinstatement of Grange Lodge at land adjacent to the A57, Worksop Road, Todwick.

RECOMMENDATION: REFUSE

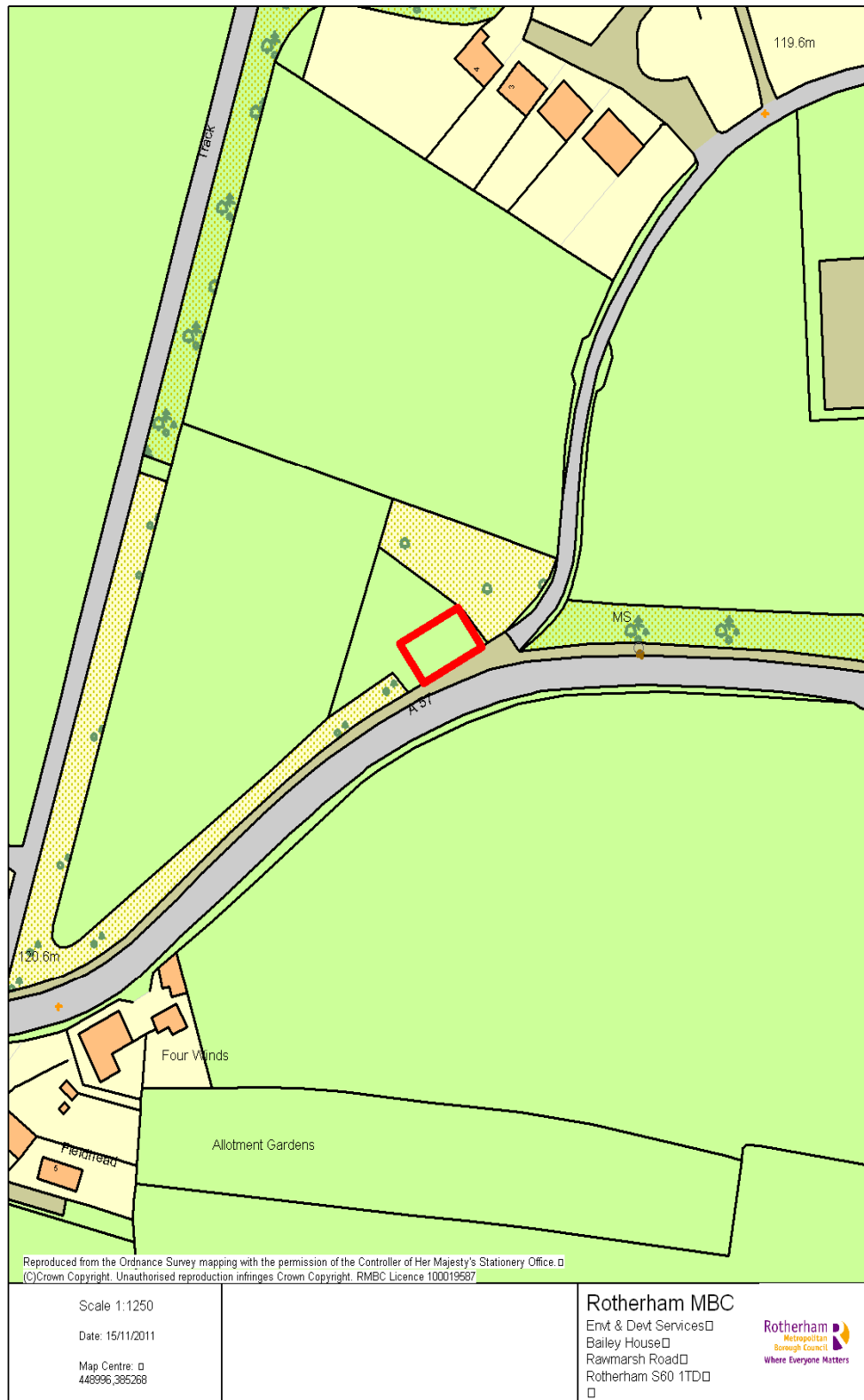
REASON FOR REFUSAL

01

The erection of a dwelling on the site would represent inappropriate development in the Green Belt, and would impact on the openness and visual quality of the Green Belt in this location. It is the policy of the Council to resist inappropriate development except in very special circumstances. No such very special circumstances have been demonstrated in this instance to justify the inappropriate development, or overcome the other harm caused, and the proposal would therefore be contrary to Policy ENV1 'Green Belt' of the Rotherham Unitary Development Plan and the guidance contained in PPG2 Green Belts.

02

The application site is directly affected by the proposed A57 improvement scheme and therefore the proposed dwelling would prejudice, and be prejudiced by, the improvement scheme. Accordingly, the proposal is contrary to Policy T2 'Major Road Schemes and Highway Improvements' of the Rotherham Unitary Development Plan.



Background

RB2003/1056: Application for Re-alignment and dual Carriageway Improvements to the A57, Including Pedestrian Subway Controlled Pedestrian Crossing and Roundabout at Todwick Crossroads (Application Under Regulations 3 and 9A of the Town and Country Planning General Regulations 1992) - GRANTED CONDITIONALLY 21/12/04

RB2009/0260: Application for re-alignment and dual carriageway improvements to the A57, including pedestrian subway controlled pedestrian crossing and roundabout at Todwick crossroads (Application under Regulations 3 & 9A of the Town & Country Planning General Regulations 1992) - GRANTED CONDITIONALLY 04/06/09

RB2011/0628: Application for realignment and dual carriageway improvements to the A57, including pedestrian subway, controlled pedestrian crossing and roundabout at Todwick crossroads (Application Under Regulations 3 and 9A of the Town and Country Planning General Regulations 1992)
at land at Sheffield Road Todwick - GRANTED CONDITIONALLY 30/08/11

Site Description & Location

The site is located off the A57, Worksop Road at Todwick, immediately to the west of the access drive that serves properties at 'Grange Gardens' and Todwick Grange. It is within a relatively isolated rural location in a visually prominent position within the surrounding countryside. The site is within the Green Belt as designated in the Rotherham Unitary Development Plan.

The site was previously occupied by a dwelling, a lodge house, which was associated with the nearby Todwick Grange. However, this dwelling was burned down and demolished at some point during the 1970s or early 1980s. The site was completely cleared of the former building and was allowed to become overgrown with trees and shrubs. The site has in effect returned to nature, though the applicant indicates that the foundations of the former house remain in situ at the site.

The site in question is part of the proposed land required for the approved re-alignment of the A57 and is required for this development.

Proposal

The proposal is being made by the owner of the nearby Todwick Grange and it is for the erection of a new single storey dwelling in the Green Belt on the site of a former lodge house (which was also single storey). The application is in Outline with all matters reserved. However, the applicant indicates that the proposal is to re-instate this building and that it would have a similar design to the demolished dwelling. The applicant has not included any plans of the former dwelling, though has submitted a photograph of the dwelling dating from 1947.

The applicant has submitted a Design and Access Statement to accompany the application which states that the intention is to re-build this dwelling with an approximate increase in size of 10% though no details of the original dimensions, such as width, depth or height of the former dwelling, have been submitted. However, the applicant has given maximum dimensions for any new dwelling on the site which are as follows:

Height to the ridge: 4 metres
Length: 14 metres
Width: 8.5 metres

The applicant has indicated that the new dwelling would be constructed of stone with a slate roof. However, as the application is in outline with all matters reserved the materials to be used, along with the scale, layout, landscaping, access and appearance of the dwelling, cannot be taken into consideration as part of this application.

The applicant has justified the construction of a new dwelling in the Green Belt by stating that the re-instatement of an historic lodge house, which was formally part of an historic estate, would be desirable in heritage terms. The applicant argues that the benefit to the historic environment by re-instating the lodge house provides the very special circumstances to justify inappropriate development in the Green Belt.

Development Plan Allocation and Policy

The site is within the Green Belt and identified as part of a site of 'Known interest Outside Protected Sites' for being of archaeological interest and the following Policies are considered to be relevant:

Policy ENV1 Green Belt 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 circumstances for purpose 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 'Conserving the Environment' states "The responsibility lies heavily with the developer to demonstrate that their proposals have adequately identified and considered their effects upon the heritage of the Borough."

Policy ENV2.2 'Interest outside of Statutorily Protected Sites' states that: "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 T2 'Major Road Schemes and Highway Improvements' states that: "The Council will promote appropriate schemes on the Major Road Network and other major road schemes which:

- (i) improve access to the national motorway and trunk road network,
- (ii) reduce congestion and, in particular, delays to public transport,
- (iii) remove extraneous traffic, including heavy goods vehicles, from town centres and other environmentally sensitive areas, and
- (iv) support the development of strategic regeneration areas."

Other Material Considerations

Supplementary Planning Guidance:

Supplementary Planning Guidance (SPG) Housing Guidance 3: 'Residential Infill Plots' advises on what the Council considers to be acceptable space about building standards for new dwellings and amongst other matters includes spacing of 20 metres minimum between principal elevations or 12 metres minimum between a principal elevation and an elevation with no habitable room windows.

National Guidance:

Planning Policy Statement 1: Delivering Sustainable Development (PPS1) states that development should 'reduce the need to travel and encourage accessible public transport provision to secure more sustainable patterns of transport development.'

Planning Policy Guidance Note 2: Green Belts 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." It adds that the construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- agriculture and forestry
- essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it
- limited extension, alteration or replacement of existing dwellings
- limited infilling in existing villages and limited affordable housing for local community needs under development plan policies
- limited infilling or redevelopment of major existing developed sites identified in adopted local plans

Planning Policy Statement 3: Housing (PPS3) states that 'Local Planning Authorities should encourage applicants to bring forward sustainable and environmentally friendly new housing developments.'

Planning Policy Statement 5: Planning and the Historic Environment gives a definition of a Heritage Assets which states that a heritage asset is “a building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated heritage assets (as defined in this PPS) and assets identified by the local planning authority during the process of decision-making or through the plan-making process (including local listing).”

Planning Policy Statement 9: ‘Biodiversity and Geological Conservation’ States that “The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests.”

Publicity

The application was advertised by neighbour notification letter and by a site notice and has been advertised in the press. No letters of representation have been received by the Council. The applicant has requested the right to speak at the Planning Board.

Consultation

Transportation Unit: States that the application site is directly affected by the proposed A57 improvement scheme. The scheme was granted conditionally by the Council (RB2011/0628) on the 30 August 2011. The scheme is included in the current Local Transport Plan 3, the Sheffield City Region Transport Strategy, is referred to in the upcoming LDF and has an anticipated start date for construction on the 1st August 2012. The scheme has programme entry status with the Department for Transport (DFT) and final approval by the DFT is subject to satisfactorily completion of statutory procedures.

The proposed dwelling, if approved, would prejudice and be prejudiced by, the improvement scheme. Accordingly, the Council's Transportation Unit is unable to support the proposal on highway grounds and it is recommended that planning permission should be refused.

Yorkshire Water: Yorkshire Water raise no objections to the proposed dwelling subject to conditions relating to the drainage of the site and the suitable disposal of foul waste from the property.

Culture and Leisure Service (Ecology): States that without the submission of ecological survey and impact assessment for this semi-natural site it is not possible to provide assessment of the proposed development, though it is considered that this could be dealt with by way of a planning condition.

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: -

- The principle of the development.
- The impact on the openness of the Green Belt and on the visual appearance of the surrounding area.
- The effect of the development on the residential amenity of surrounding properties.
- Highway safety issues.
- Very special circumstances to justify inappropriate development and overcome any other harm.

Principle of the development:

With regard to the principle of the development it is noted that the site is within the Green Belt. Policy ENV1 'Green Belt' states that: "In the Green Belt, development will not be permitted except in very special circumstances for purpose other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area."

PPG 2: Green Belts 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." PPG2 adds that the construction of new buildings inside the Green Belt is inappropriate, though provides details of when such new build is acceptable. The propose development does not fall within any of those situations. As such, it is considered that the residential re-development of this site is inappropriate development in the Green Belt. Consideration has to be made as to whether or not there are any very special circumstances which justify the construction of a new dwelling in the Green Belt, and this is discussed in further detail below.

With regard to the principle of the development, it is noted that the site would be directly affected by part of the approved re-alignment of the A57, Worksop Road, and that the granting of planning permission for a new dwelling on this site would prejudice this approved scheme. The Council's Transportation Unit object to the proposals on the basis that any new dwelling on the site would prejudice and would be prejudiced by the highway improvement scheme. As such, the proposal is contrary to Policy T2 'Major Road Schemes and Highway Improvements' of the Rotherham Unitary Development Plan.

The site in question is designated as being of interest outside of Statutorily protected sites. This site is designated as of interest due to its archaeological significance as there was an historical estate of Todwick Grange sited close by. Though the house still exists it is not Listed. Policy ENV2.2 'Interest outside of Statutorily Protected Sites' states that "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."

In this instance as the site is over an earlier lodge house there could potentially be some archaeological implications on the site. Any new development is likely to be a threat to this archaeology unless a condition be attached to any planning permission granted requiring an archaeological survey be undertaken at the site. However, it is considered that the proposed development would not necessarily be harmful to any archaeological interest of the site, subject to a condition being appended to any planning permission granted requiring an archaeological survey of the site being carried out prior to development.

Impact on the openness of the Green Belt and on the visual appearance of the surrounding area:

With regard to the impact of the development it is noted that the site is open and is overgrown and has returned to a natural state. Though it is noted that a lodge house has previously existed on the site this building has been demolished and there is no obvious evidence of this building, except that the applicant has stated that the foundations of the dwelling remains on the site. However, these foundations are not visible from above ground.

PPG2 notes states that “the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness.”

PPG2 adds that the visual amenities of the Green Belt should not be injured by development which might be visually detrimental by reason of their siting, materials or design.

In this instance, it is considered that the construction of any new dwelling on this site would be harmful to the openness of the Green Belt and would be visually prominent within this highly visible rural location, harming the visual appearance of the Green Belt.

The effect of the development on the residential amenity of surrounding properties:

The application is in outline with all matters reserved, however, the dwelling is in a relatively isolated location with no near neighbouring properties. As such, it is considered that the construction of any new dwelling on this site would not materially harm the residential amenity of neighbouring residents.

Impact on highway safety:

With regard to the impact of the development on highway safety, it is noted that the Council's Transportation Unit object to the proposal in principle based on any new dwelling in this location, prejudicing the highway improvement scheme of the A57.

Very special circumstances to justify inappropriate development and overcome any other harm:

The applicants have stated that the re-instatement of the former lodge house on this site would provide the very special circumstances to justify the inappropriate development in the Green Belt, as it would be desirable in heritage terms in accordance with Planning Policy Statement 5: Planning and the Historic Environment.

PPS 5: Planning and the Historic Environment gives a definition of a Heritage Asset as being; “a building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated heritage assets (as defined in this PPS) and assets identified by the local planning authority during the process of decision-making or through the plan-making process (including local listing).”

In this instance it is noted that this site is not given any designation in the adopted UDP as a heritage asset, it is not within a Conservation Area and there are no Listed Buildings close to the site, including the nearby Todwick Grange, which the former lodge house would have been associated with. In effect the site has no historical value at all and though an historic building formally existed on the site, this building has completely gone and its reinstatement is not desirable in heritage terms as the building would be at best, a pastiche of what was formally there.

As such, it is considered that the applicant has failed to provide any very special circumstances to justify the inappropriate development of a new dwelling in the Green Belt, and overcome the harm caused by the impact that the dwelling would have on the openness and visual appearance of the Green Belt in this location, the harm caused by effectively preventing the approved improvements to the A57 in this location, and the potential harm caused on ecological interest on the site. As such, the proposal is contrary to Policy ENV1 ‘Green Belt’ and guidance contained in PPG2 ‘Green Belts’.

Conclusion

It is considered that the proposal for a new dwelling is inappropriate development within the Green Belt and that the applicants have failed to demonstrate the very special circumstances to justify this inappropriate development, and overcome the other harm caused by it, including the impact the development would have on the openness and visual quality of the Green Belt in this location. As such, the proposal is contrary to Policy ENV1 ‘Green Belt’ of the Rotherham Unitary Development Plan and guidance contained in PPG2 ‘Green Belts.’

It is further considered that granting planning permission for a new dwelling on the site of the approved road improvement scheme for the A57 would prejudice this development and would be prejudiced by this scheme which is contrary to Policy T2 ‘Major Road Schemes and Highway Improvements’ of the Rotherham Unitary Development Plan.

Finally, the applicant has failed to submit an ecological survey and impact assessment for the site. As such, it is not possible to provide an ecological assessment of the site which has returned to a semi-natural state. Therefore this lack of information is contrary to Policy ENV2 ‘Conserving the Environment’ and PPS9: ‘Biodiversity and Geological Conservation’ and it is recommended that planning permission be refused on this basis.

For the above mentioned reasons it is recommended that Members refuse planning permission for the proposal.

RB2011/1389

Outline application for residential development of 18 No. units at land to the north of Kilnhurst Road, Rotherham. The applicant is RMBC.

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT OUTLINE PLANNING PERMISSION

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

Development Plan:

Local Planning Policy

HG4.3 'Windfall Sites' indicates that the Council will determine proposals in light of their location within the built up area and compatibility with adjoining uses.

HG5 'The Residential Environment' indicates that the Council will encourage best practice in layout and design in order to enhance the quality of residential environment.

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

ENV3.7 'Control of Pollution' indicates that the Council in consultation with other appropriate agencies will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.

Other relevant material planning considerations:

PPS1 'Delivering Sustainable Development' promotes high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development.

PPS3 'Housing' indicates that schemes should have a mix of types and tenures of residential units and seek good design in new residential layout and development.

PPS 9 'Biodiversity and Geological Conservation' recommends Councils conserve, enhance and restore the diversity of England's wildlife and geology by sustaining, and where possible improving, the quality and extent of natural habitat and geological and geomorphological sites; the natural physical processes on which they depend; and the populations of naturally occurring species which they support.

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

PPG24 'Planning and Noise' indicates that the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major

sources of noise. Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.

PPS25 'Development and Flood Risk' indicates that flood risk should be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new development is necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and where possible, reducing flood risk overall.

The Interim Planning Statement indicates that Affordable Housing shall be provided at a rate of 25% of the total on residential schemes of 15 units and above.

For the following reasons:

The land is currently allocated for residential purposes in the UDP, though the land is classified as Greenfield as defined by PPS3 'Housing'. However, bearing in mind that there are no policies preventing Greenfield development and the previous presumption against Greenfield development has been lifted, it is considered that this site would contribute to the boroughs housing targets and therefore the principle of additional residential dwellings in this location is acceptable.

The Transportation Unit have indicated that the principle of a residential scheme is acceptable from a highway safety perspective at this stage, subject to conditions.

A proposal for 18 residential units on this site equates to an overall density of 33 units per hectare which is considered to represent an acceptable balance between achieving an efficient use of land, whilst maintaining an acceptable level of private amenity space.

However, bearing in mind that only the principle of development is being considered at this stage, the design proposals are only indicative and are not being formally considered. The applicant is reminded of the need to have further pre-application discussions regarding the proposed design prior to the submission of a reserved matters application.

The areas to the north and east of the site area are predominantly residential and it is considered that the proposals would not have an adverse impact on the general character of the surroundings or on the residential amenity of existing properties.

The Affordable Housing Officer has indicated that the provision of the Affordable Housing element through the imposition of condition, rather than a section 106 agreement is acceptable in this instance.

The Environmental Health department have indicated that that there are no objections in principle of the scheme.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. 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.

Reason

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

02

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

Reason

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

03

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

Reason

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

04

The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The Affordable Housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 (or any future guidance that replaces it) and in accordance with the Council's Interim Planning Statement for Affordable Housing.

The scheme shall include:

1. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% of housing units;
2. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
3. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved) ;
4. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reasons

In the interests of achieving a balanced mix of housing types and tenures and in accordance with the 2008 Interim Planning Statement and national policy PPS3 'Housing'.

05

Car parking shall be provided in accordance with the Council's Parking Standards 2011.

Reasons

In the interest of highway safety

06

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.

Reason

In order to promote sustainable transport choices.

07

The development shall not be commenced until details of a directional sign (One Way) to be fixed to the street lighting column in Sandhill Road opposite the proposed site access have been submitted to and approved by the Council. The sign shall be provided before the development is commenced and left in situ thereafter.

Reasons

In the interest of highway safety

08

Prior to the commencement of the development, the developer shall submit a site investigation report for the approval of the Local Planning Authority. The site investigation report shall also include investigations of the potential for historic unrecorded shallow mine workings that may be present under the site. In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings, these details 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.

Reason

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

09

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

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

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

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

Reason

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

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.

Reason

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

11

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

Reason

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

12

The detailed plans to be submitted in accordance with the requirements of this permission shall include a tree survey in accordance with BS 5837:2005 Trees in Relation to Construction Recommendations section 4.2 to 4.5 to include all the existing trees on and adjacent to the site that may be affected by any development and the following details;

1. Reference number (to be recorded on the tree survey plan to a scale and level of accuracy appropriate to the proposal);
2. Species (common and scientific names, where possible);
3. Height in metres;
4. Stem diameter in millimeters at 1.5 m above ground level (on sloping ground to be taken on the upslope side of the tree base) or immediately above the root flare for multi-stemmed trees;
5. Branch spread in metres taken at the four cardinal points to derive an accurate representation of the crown (to be recorded on the tree survey plan);
6. Height in metres of the crown clearance above adjacent ground level (to inform on ground clearance, crown stem ratio and shading);
7. Age class (young, middle aged, mature, over-mature, veteran);
8. Physiological condition (e.g. good, fair, poor, dead);
9. Structural condition, e.g. collapsing, the presence of any decay and physical defect;
10. Preliminary management recommendations, including further investigation of suspected defects that require more detailed assessment and potential wildlife habitat;
11. Estimated remaining contribution in years (e.g. less than 10, 10-20, 20-40, more than 40)
12. R or A to C category grading (see table 1) to be recorded and indicated on the tree survey plan

In addition the following details shall also be submitted for consideration and approval.

- root protection areas (RPA)
- a tree constraints plan (TCP)
- construction exclusion zones
- tree protection plan (TPP)
- arboricultural implication assessment (AIA)
- arboricultural method statement (AMS)
- existing and proposed contours and levels

Reason

In order that the Local Planning Authority may consider the desirability of retaining trees in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

13

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.

Reason

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'.

14

The reserved matters application shall show a scheme that is at a maximum two storey in height

Reason

In order to conform to the general residential characteristics of the surroundings.

15

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

Reason

In the interest of satisfactory and sustainable drainage.

16

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

Reason

To ensure that the development can be properly drained.

17

Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason

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

Informatives

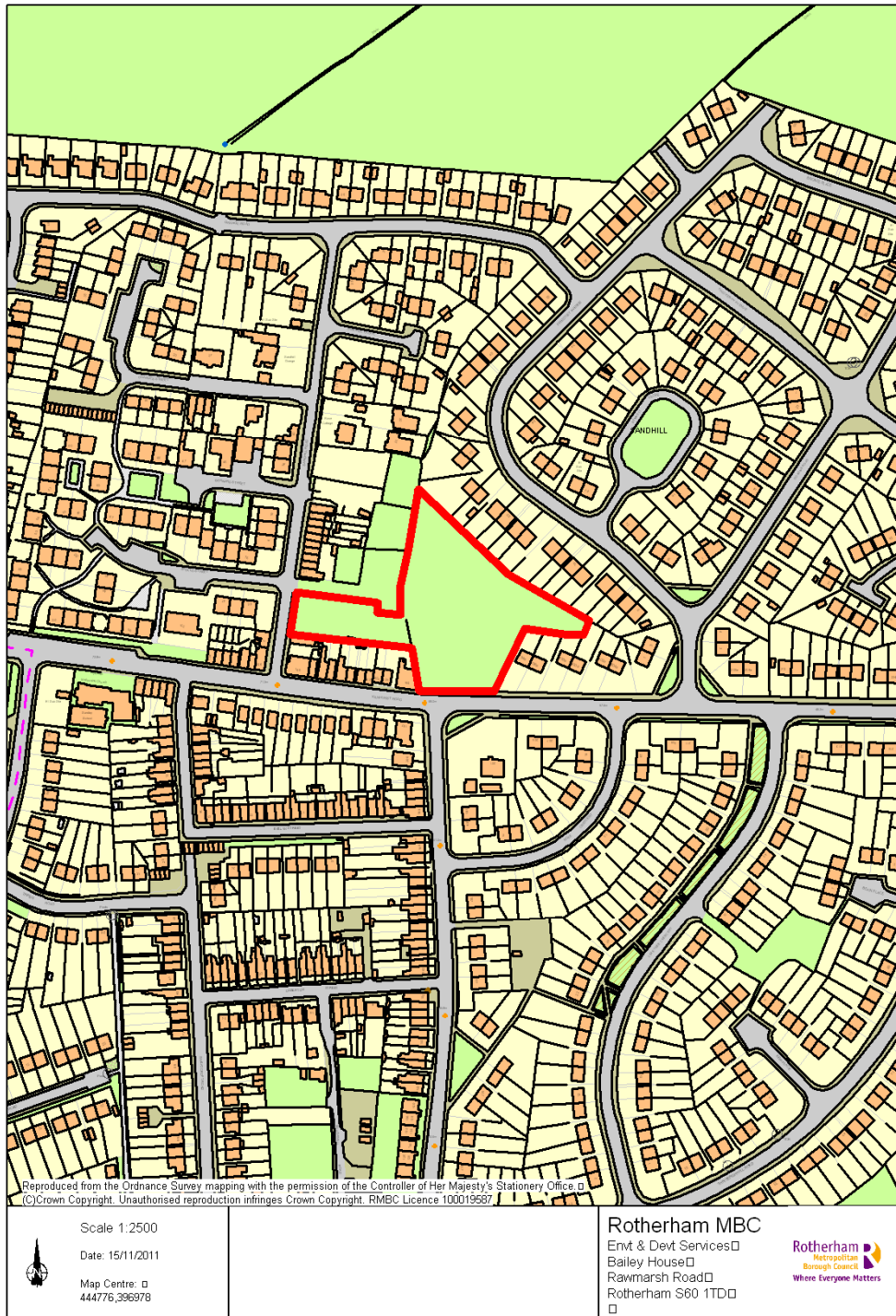
- a) The applicant should be aware that whilst the principle of residential development is acceptable, the Council has strong reservations about the indicative layouts of the scheme and particularly with the location of and future management of the proposed Public Open Space. As such it is recommended that the applicant engage in pre-application discussions with the Local Planning Authority at the earliest possible stage and well in advance of any future submission for Reserved Matters
- b) The proposed site layout shall be designed in accordance with the South Yorkshire Residential Design Guide 2011.
- c) 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.

- d) 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.
- e) 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).
- f) 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.
- g) 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.
- h) Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Prior extraction of surface coal requires an Incidental Coal Agreement from The Coal Authority; further information can be found at: http://coal.decc.gov.uk/en/coal/cms/services/licensing/license_apps/license_apps.aspx
- i) Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass,

with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <http://coal.decc.gov.uk/en/coal/cms/services/permits/permits.aspx>

- j) The local public sewer network does not have capacity to accept any additional discharge of surface water from the proposal site. water from the proposal site.
- k) Sustainable Systems (SUDS), for example the use of soakaways and/or permeable hardstanding, may be a suitable solution for surface water disposal that is appropriate in this situation. The use of SUDS should be encouraged and the LPA's attention is drawn to PPS25.



Background

The site has not had any previous planning history and has remained undeveloped since the residential housing estate to the north-east was completed in the 1950s.

EIA Screening Opinion

The proposed development falls within the description contained at paragraph 10b (Urban Development Projects) of Schedule 2 to the TCP (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 Borough Council as the relevant 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 authority has adopted the opinion that the development referred to is not EIA development as defined in the 1999 Regulations.

Site Description & Location

The site is located to the north of Kilnhurst Road and to the east of Sandhill Road, Rawmarsh. It comprises an area of land approximately 0.55 hectares in size with an irregular shaped boundary.

The site does not have any formal recreation facilities and the flatter part of the site appears to be mainly used as a dog-walkers area, with the more steeply sloping areas comprising of rough grassland with no formal use.

The central section of the sites north-eastern corner is strongly sloping from south-north. The area surrounding the site are predominantly residential. The properties to the west, south and north of the site are predominantly two storey in height with the properties directly to the south-east of the site along Kilnhurst Road being single storey bungalows.

Proposal

The application is an outline application for 18 residential units, all matters have been reserved and only the principle of residential development is being considered in this application.

The indicative plans show a single point of access from the west off Sandhill Road with a turning head within the central area of the site. The indicative layout shows that there would be a block of 5 terraced properties on the eastern side of the road and a block of 3 terraced properties with a detached property on the western side of the road. A block of apartments has been indicated on the southern section of the site. Two main amenity areas are proposed, an area around the apartments in the south and the area to the north of the site which would be used as public open space.

In addition the following supporting documents have been provided and can be summarised as follows:

Phase 1 habitat survey –

- Habitats within the site boundary that will be lost as a result of developing the site are likely to include amenity grassland, dense and scattered scrub and semi-mature trees. These habitats are considered to be of negligible nature conservation importance.
- No habitat within the site boundary has been identified as having the potential to support specially protected bird species.
- There is no potential for roosting bats to be present on the site. However the site does have some potential for foraging bats,
- Within the wider site there are numerous opportunities to achieve biodiversity enhancement in accordance with PPS9. However, in such an urban and heavily publicly used area, it is not considered appropriate to deliver measures such as pond and wetland creation.

Tree Survey – Many of the trees on site have not been formally maintained and as a result, many of the trees are developing poorly. Many of the trees due to the limited growing space have suffered the from competition and in many cases suffer from canopy asymmetry.

Development Plan Allocation and Policy

01 UDP Policies

HG4.3 'Windfall Sites' indicates that the Council will determine proposals in light of their location within the built up area and compatibility with adjoining uses.

HG5 'The Residential Environment' indicates that the Council will encourage best practice in layout and design in order to enhance the quality of residential environment.

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

ENV3.7 'Control of Pollution' indicates that the Council in consultation with other appropriate agencies will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.

Other Material Considerations

National Policies

PPS1 'Delivering Sustainable Development' promotes high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development.

PPS3 'Housing' indicates that schemes should have a mix of types and tenures of residential units and seek good design in new residential layout and development.

PPS 9 'Biodiversity and Geological Conservation' recommends Councils conserve, enhance and restore the diversity of England's wildlife and geology by sustaining, and where possible improving, the quality and extent of natural habitat and geological and

geomorphological sites; the natural physical processes on which they depend; and the populations of naturally occurring species which they support.

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

PPG24 'Planning and Noise' indicates that the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise. Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.

PPS25 'Development and Flood Risk' indicates that flood risk should be taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new development is necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and where possible, reducing flood risk overall.

Publicity

Neighbouring properties were informed by letter on 27 September 2011 and a site notice was erected on 06 October 2011. The application has also been advertised in the local press. Two letters of objection have been received and can be summarised as follows:

- Reduction in views and loss of privacy.
- Reduce property values.
- Increase in traffic on this one way street (Sandhill Road) will be a issue as we already have a private bus company with several buses coming down the street several times a day.

Consultations

Transportation Unit – no objections subject to conditions

Ecologist – no objections

Coal Authority – no objections

Natural England – no objections

Neighbourhoods (Environmental Health) – no objections subject to informatives

HMR (Affordable Housing) – no objections subject to provision of Affordable Housing

SY Fire and Rescue – no objections

Landscaping – some concerns have been raised regarding the management of the public open space areas. Overall no objections subject to conditions.

Green spaces – concerns with location of open space and its future

management.

Yorkshire Water – no objections subject to conditions

Tree Officer – no objections subject to conditions

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 issues to be taken into consideration during the determination of this application are as follows:

- The principle of a residential scheme.
- Highway safety issues and access to the site
- The quality of the indicative design proposals
- Impact on the character of the surrounding area
- Affordable Housing provision

The principle of a residential scheme.

The land is currently allocated for residential purposes in the UDP, though the land has never been developed and would be classified as Greenfield within the definitions of national planning policy PPS3 'Housing'. However, bearing in mind that there are no policies preventing Greenfield development and the previous presumption against Greenfield development has been lifted, it is considered that this site would contribute to the boroughs housing targets and therefore the principle of additional residential development in this location is acceptable.

In terms of biodiversity, the information submitted in support of the application indicates that the area has limited potential to support protected bird species or habitat potential for roosting bats to be present on the site. The Council's Ecologist has indicated that the scope of the survey work is appropriate. The timing of the survey work is sub-optimal but it is believed that a reasonable assessment of the site's interest would have been possible and the results of the survey work are accepted. In addition the response from Natural England indicates that there are no objections in terms of PPS 9 'Biodiversity and Geological Conservation', though it is recommended that biodiversity provision should be enhanced in any future scheme.

The Green Spaces unit within the Council has assessed the land as of being low quality open space, however it is considered that the provision of an alternative area of amenity is considered to offset the loss of the publically accessible area of informal open space.

Accordingly, taking the above matters into account, it is considered that the principle of residential development from a planning policy aspect is acceptable on this site.

Highway safety issues and access to the site

The Transportation Unit have indicated that the principle of a residential scheme with access being considered is acceptable from a highway safety perspective at this stage, subject to conditions. The Transportation Unit have indicated that there are no objections to the access coming from Sandhill Road, providing that a directional sign (One Way) is to be fixed to the street lighting column in Sandhill Road opposite the proposed site access. This aspect of the scheme is considered acceptable.

The quality of the indicative design proposals

A proposal for 18 residential units on this site equates to an overall density of 33 units per hectare which is considered to represent an acceptable balance between achieving an efficient use of land, whilst maintaining an acceptable level of private amenity space.

However, whilst the principle of 18 residential dwellings is considered to be acceptable on the site, there are some about the indicative design layout. In particular it is considered that the proposed area of highway with front parking areas represents a car-dominated scheme. In addition the positioning of the apartments is considered to have a potentially detrimental impact on the street scene of Kilnhurst Road.

In addition the management of the proposed amenity areas has been raised as a future concern, in particular the 'Woodland Trail'. The area is located at the end of the proposed cul-de-sac and has a single point of entry/exit. It has poor physical links with the surrounding environment and has limited or no opportunity for visual surveillance. As stated in the South Yorkshire Residential Design Guide...."In order to be meaningful, safe and actively used, public open space must be well located and visible from other public spaces, most importantly, from streets." Public open space "...must be located alongside and visible from main lines of movement." Should the trail be considered appropriate details are required identifying how the area will be maintained, who will take responsibility for the area and how access is to be controlled. These concerns have also been highlighted by the Green Spaces Officer, who has indicated that its enclosed location and proximity to houses, along with limited overlooking from roads would make it difficult to police.

However, bearing in mind that only the principle of development is being considered and the design proposals are only indicative. An informative is proposed to advise the applicant to have pre-application discussions regarding the proposed design prior to the submission of a reserved matters application.

Impact on the character of the surrounding area

The areas to the north and east of the site area are predominantly residential and it is considered that the proposals would not have an adverse impact on the general character of the surroundings or on the residential amenity of existing properties. The majority of the surrounding properties are a maximum of two storey in height and it is considered necessary to impose a two storey height limit condition on any subsequent reserved matters application to conform to the advice given in UDP Policy ENV3.1 'Development and the Environment'.

Affordable Housing provision

The Affordable Housing Officer has indicated that the provision of the Affordable Housing element through the imposition of condition, rather than a section 106 agreement, is acceptable in this instance. No S106 agreement has been proposed in this application as the land is currently owned by RMBC. The applicant has indicated that full Affordable Housing provision in line with the current Interim Planning Statement would be provided. It is considered that under these circumstances this could be satisfactorily controlled via a planning condition.

Other Issues

The Environmental Health department have indicated that there are no objections in principle of the scheme, subject to recommended informatics regarding suggested hours of construction.

Any issues relating to surrounding property values are not material planning issues that can be taken into account during the determination of the planning application.

Conclusion

The land is currently allocated for residential purposes in the UDP, though the land is classified as Greenfield as defined by PPS3 'Housing'. However, bearing in mind that there are no policies preventing Greenfield development, it is considered that this site would contribute to the boroughs housing targets and therefore the principle of additional residential development in this location is acceptable.

The Transportation Unit have indicated that the principle of a residential scheme is acceptable from a highway safety perspective at this stage, subject to conditions.

A proposal for 18 residential units on this site equates to an overall density of 33 units per hectare which is considered that this represents an acceptable balance between achieving an efficient use of land, whilst maintaining an acceptable level of private amenity space.

Only the principle of development is being considered at this stage and the applicant is reminded of the need to have further pre-application discussions regarding the proposed design prior to the submission of any reserved matters applications.

The areas to the north and east of the site area are predominantly residential and it is considered that the proposals would not have an adverse impact on the general character of the surroundings or on the residential amenity of existing properties.

As such the application is recommended for approval.

RB2011/1438

Change of use from dwellinghouse to day nursery/breakfast and after school facility (use class D1) with opening hours 0700 to 1800, demolition of the existing garage and the erection of two single storey side extensions at Sandown, Broom Crescent, Broom for Mrs. I. Kachiwn Idaboh.

RECOMMENDATION: REFUSE

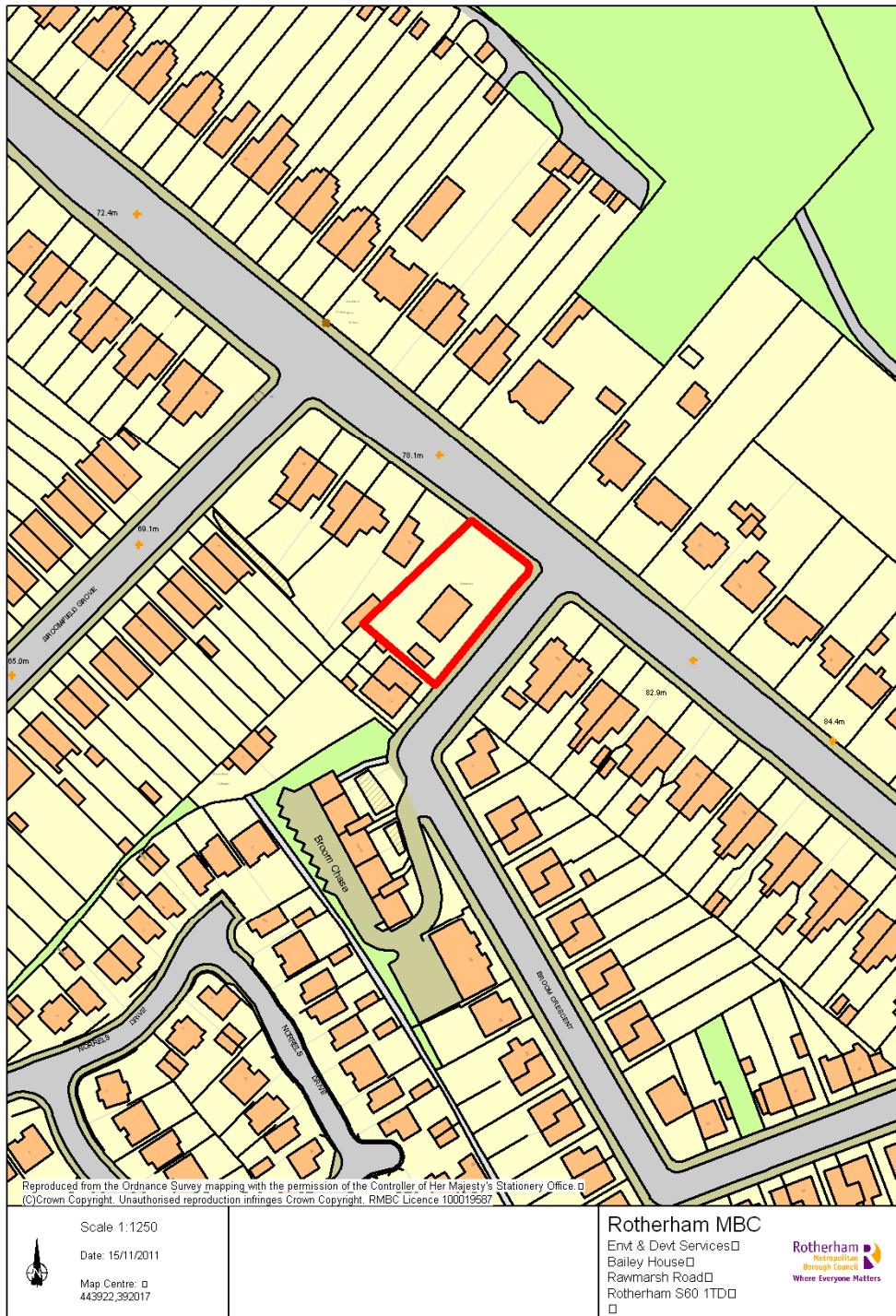
REASON FOR REFUSAL

01

The Council considers that the proposed day nursery / breakfast and after school facility would lead to levels of noise and general disturbance, particularly during children's outside playtimes and when children are being dropped off and picked up early in the morning and in the evening, which would be detrimental to the amenities of occupiers of nearby properties. As such, the proposal would be contrary to Policies HG1 'Existing Housing Areas' and ENV3.7 'Control of Pollution' of the adopted Rotherham UDP.

02

The application lacks sufficient information regarding the existing trees and hedges on the site to enable the Local Planning Authority to fully assess the impact of the development on local amenity, and in particularly the amenity provided by the existing Monkey Puzzle tree protected as T1 of Tree Preservation Order No. 4 2010.



Background

There have been no previous planning applications submitted relating to this bungalow since the bungalow was constructed circa 1950s.

Site Description & Location

The application site is located in a prominent corner position on the junction of the classified Broom Road (A6021) and the residential estate road Broom Crescent, within a predominantly residential area. Within the immediate vicinity there are some existing non-residential uses including Rudston Preparatory School, a dental practice and a hospice, all on Broom Road.

Broom Crescent however, is a residential street comprising solely of various types of residential dwellings including flats and large semi-detached dwellings.

This property, which is a bungalow, is set almost within the middle of the plot, and is 17 metres from Broom Road, 6 metres from Broom Crescent, 8 metres from the western boundary with 88 Broom Road and 10 metres from the southern boundary with 2 Broom Crescent. The site is approximately 840 sq. metres in area.

The site slopes downwards both north to south and east to west, with the northern part of the site being below the road level of both Broom Crescent and Broom Road.

There is a stone boundary wall along Broom Road and a brick boundary wall along Broom Crescent. A post and wire fence forms the boundary with 88 Broom Road which is at a slightly lower level to the application site.

The bungalow is 12.5 metres long, 7.6 wide and 5.3 metres to the ridge. It is of a brick built construction circa 1950s.

Between the northern side gable elevation and the northern boundary of the site with Broom Road there is a Monkey Puzzle tree which was protected by way of a TPO in 2010.

To the south of the dwelling there is a wall at approximately 2.5 metres high that runs from the southern side elevation to the detached garage close to the boundary with no. 2 Broom Crescent.

Proposal

The proposal is for the change of use of the existing bungalow to a day nursery / breakfast and after school facility (use class D1), demolition of the existing garage with single-storey extensions to both gable elevations.

The extension to the northern elevation of the bungalow will project approximately 3.9 metres from the side gable elevation and would not project beyond the front or rear building lines and would be provided with a pitched roof of a shallow pitch and lower ridge height than the existing bungalow. The rear elevation of the extension would have a pair of French doors installed while the front elevation would have a single window, a door and large window are proposed in the side elevation.

The extension to the southern elevation of the bungalow will project approximately 7.2 metres from the side gable elevation and would occupy the same position of the existing attached wall and garage. The extension would not project beyond the front or rear building lines and would be provided with a pitched roof of a shallow pitch and lower ridge height than the existing bungalow. The front elevation would have a door and window installed while the rear elevation would have a pair of French doors and two windows, the side elevation would have a door and a high level window.

Both extensions are proposed to be constructed in materials similar to those used in the original bungalow.

Alterations are proposed to the original property, including a pair of French doors to the rear elevation, which does not require planning permission.

The proposed plan shows 5 staff car parking spaces and 2 visitor parking spaces available to the front of the bungalow facing Broom Crescent.

The applicant has stated that there will be 5 members of staff employed at the premises. They have also indicated that the potential capacity of the extended building is 40 children, consisting of 24 children aged between 2 and 5 and an additional 16 children for the breakfast and after school club.

They further state that the nursery section will run from 7am to 6pm, while the breakfast and after school club will run for an hour before school and two hours after school.

Outdoor play is to be supervised by staff, and will follow staff ratios recommended by Ofsted and the nursery routine allows set times for outdoor play, which will be an hour a day, split into sections of 30 minutes.

The applicant also states that there is ample of space on the front of the property for drop off and pick up with car parking for up to five members of staff.

Development Plan Allocation and Policy

The application site is located within an area allocated for residential purposes within the Council's adopted Unitary Development Plan (UDP).

The proposal has been assessed against the following UDP policies:

HG1 'Existing Housing Areas', which states "The Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which:

- (i) have no adverse effect on the character of the area or on residential amenity,
- (ii) are in keeping with the character of the area in terms of scale, layout and intensity of use,
- (iii) make adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development, or
- (iv) are ancillary to the residential nature and function of the area and which also satisfy the above requirements."

ENV3.1 'Development and the Environment', which 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, height, massing and quality of materials.

ENV3.3 'Tree Preservation Orders', which states the Council will protect individual trees by the declaration of Tree Preservation Orders where it is important in the interest of visual amenity or there is reason to believe that trees are under specific threat by development.

ENV3.7 'Control of Pollution', which states the Council will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development, and planning permission will not be granted for new development which, amongst other things, is likely to give rise to noise or other nuisances, where such impacts would be beyond acceptable standards.

Other Material Considerations

The proposed extensions have also been assessed against the following sub-section of the adopted Supplementary Planning Guidance (SPG) 'Housing Guidance 1: Householder development' section:

Adding a single-storey side extension, which states care should be taken in the design of all such proposals as they can form a significant element in the streetscene. It further states that brickwork similar in type, colour and texture to the existing building will greatly improve the appearance of the extension, while a pitched roof of similar appearance and materials to the original building will also improve its appearance.

Publicity

The occupants of neighbouring residential properties have been notified in writing. 43 letters of objection have been received and the issues raised are summarised below:

- The parking on Broom Road at present due to the Dentist's, Rudston School and the hospice is horrendous and this would only add to the chaos already there.
- Rudston School has been refused planning permission on several occasions as it was thought an increase in pupil numbers would be detrimental to the traffic, parking and noise levels in the local community.
- The planned pupil / staff numbers are confusing and do not appear to conform to correct Ofsted ratios.
- There needs to be a continuous free flow provision of the outdoor area, so it is nonsense to say they will only use the outdoors for an hour each day.
- The Monkey Puzzle tree is a local landmark and strongly objects to the felling of this tree.
- This is a residential area; a business of this type will increase traffic and parking issues all day long.
- The volume of traffic makes crossing the road hazardous, residents trying to get out of their drives have to add extra time to their journey.
- There is no adequate provision for outside play, the only available area would be too small and next to adjacent residential properties and the amount of noise forty children in such a small space will generate will be unbearable.

- There is no need for any new nurseries to open in the area as there are plenty of places already available in the local community for parents to send their children.
- The noise and congestion on these already busy roads, with residents driveways blocked on a daily basis would be made worse by possibly an extra 40 vehicles arriving and leaving to the proposed day nursery / breakfast and after school facility.
- The amenity space at the rear of the property is very close to our property and we are concerned about the noise and the 3 double doors leading to this area which may be open on hot days will create further noise.
- There appears to be no provision lay-by or site access for deliveries.
- The proposal involves effectively doubling the size of a property on a corner site that together with the hardstanding would destroy the visual amenity of the area.
- The issue of noise from children has not been addressed.
- The issue of exposure of children on such an open site may put children at risk from offenders. The site is far from private and is flanked by a main road higher than the general level of the site.

An objection has also been received by all 3 Ward Councillors for this area, the issues raised are summarised below:

- The locality is not right for the potential amount of extra traffic movement, parked cars etc that would be generated because of its proximity to a very dangerous road that already has a very volume of traffic.
- The conversion will create real problems for the residents of Broom Crescent and surrounding area with additional cars parking on what is already a very heavily congested street.
- There would be noise generated by the extra volume of traffic, by the arrivals and departures of the children and their parents from early morning to early evening.
- We are experiencing an incredible amount of anti-social parking issues in and around this area already and this application will not help matters.

5 Right to Speak notifications have been received, the applicant and four objectors.

Consultations

Transportation Unit have no objections subject to conditions.

Director of Housing and Neighbourhood Services (Environmental Health) have stated the department is concerned about the high likelihood of complaints from the occupiers of surrounding residential dwellings as a result of increased levels of noise from children playing outdoors. Due to the nature of the business, it is envisaged that there will be little respite for residential property occupiers in the locality.

Early Years and Children Team have stated that the ratios for staffing as set out by Ofsted mean the 3 members of staff proposed would be insufficient for the age and number of children proposed. In addition, the 1 hour outdoor playtime proposed would be sub-standard for ages 0-5 years, as they should have a free flow access to outdoor play / provision for all children all day, the indoor outdoor environments should be seamless with no restrictions of time and number of children to play with. They have also raised safety concerns over the Monkey Puzzle tree due to its prickly leaves and branches that can dispose coconut sized hard shells. They finally state that there is currently sufficient provision within the area for childcare facilities.

Arboriculturist states there are some concerns and reservations regarding this application due to the lack of submitted details about existing trees and hedges on the site and, in particular, T1 a protected Monkey Puzzle tree.

SY Fire and Rescue have advised access for fire appliances should be in accordance with Building Regulations Approved Document B volume 2 part B5 section 16.

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.

In determining the current proposal for a change of use from a residential to a day nursery / breakfast and after school club with single-storey extensions, it is considered that the main issues below will be applicable:

- the principle of introducing a day nursery into a residential area
- the design and impact of the proposed extensions
- the impact of the proposal on the amenity of neighbouring residents
- the impact of the proposal on the adjacent highways and their users
- the impact of the proposal on the protected tree

Principle

The application site is located within a well established residential area that is allocated as such in the Council's adopted UDP. Therefore, in accordance with Policy HG1, the Council will aim to ensure that these areas are retained primarily for residential use by permitting only those proposals, which have no adverse effect on the character of the area or on residential amenity, are in keeping with the character of the area in terms of scale, layout and intensity of use, make adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development, or are ancillary to the residential nature and function of the area and which also satisfy the above requirements.

In this instance it is considered that the introduction of a child day nursery with breakfast and after school club for up to 40 children within a well established residential area would be out of keeping with the character of the area in terms of the intensity of the use when compared to the residential nature of the existing and surrounding properties. Associated activities would be difficult to control, in particular when considering vehicular movements to and from the site throughout the day and potential noise from the children playing outside.

It is further considered the parking spaces provided would be adequate for the proposed number of staff but would lead to an excessive number of vehicles parked along Broom

Road and Broom Crescent to the detriment of the amenity of neighbouring residents, in terms of traffic, noise and general disturbance.

In a number of instances the introduction of a day nursery within a residential area can be considered to be ancillary to the residential function of the area by providing residents with a facility that will benefit the local community. However, with regard to this proposal it is considered that the scale of the proposal in relation to the size of the site and its location in close proximity to residential properties, would for the reasons detailed above have an adverse effect on the amenity of neighbouring residents in direct conflict with the requirements of Policy HG1 of the adopted UDP. As such the principle of a day nursery is acceptable in residential areas, but in this instance the scale is wholly inappropriate.

Design issues and impact on streetscene

With regard to the two proposed single-storey side extensions and their impact on the host property and streetscene, the requirements outlined within UDP policy ENV3.1 'Development and the Environment' have been considered in assessing their appropriateness.

Both extensions are subservient in nature and are of a size, scale, form, design and siting that would, if implemented, result in an acceptable and appropriate addition to this bungalow that together with the proposed materials would ensure they do not adversely affect the character or appearance of the host dwelling.

Amenity issues

Turning to issues of amenity, it is considered that the proposed extensions by virtue of their size, scale, form, design and siting, together with boundary treatment, land levels and relationship with neighbouring properties would not appear overly dominant or oppressive when viewed from neighbouring properties and would not result in any adverse levels of overlooking or, overshadowing of habitable room windows or private amenity spaces.

Further to the above and with regard to the proposed use of the site as a day nursery with breakfast and after school club, it is necessary to fully assess the impact of this use on the amenity of neighbouring residents with regard to policy ENV3.7 of the adopted UDP.

The Council's Environmental Health department have indicated that they are concerned about the high likelihood of complaints from the occupiers of surrounding residential dwellings as a result of increased levels of noise from children playing outdoors and due to the nature of the business, it is envisaged that there will be little respite for occupiers of nearby properties.

The applicant indicated in their supporting statement that the children will only play outside for two thirty minute periods during a day, to reduce the levels of noise on the occupiers of neighbouring residential properties. However, the Council's Early Years department have indicated that the 1 hour of outdoor time proposed is contrary to Ofsted regulations which states there should be a free flow of access to outdoor play / provision for all children all day. The indoor and outdoor environment should be seamless to enable children to access the benefits and opportunities of all experiences

on offer without the restriction of a set time period with a set number of other children to play with. Such restrictions potentially hinder the learning and development of children. Therefore, it is conceivable that the neighbouring residents will be subjected to adverse noise levels throughout the majority of the day not just for 1 or 2 hours, this it is considered is unsuitable for a residential area and will significantly affect the amenity of residents.

Environmental Health have recommended a condition should planning approval be given to ensure that a noise report is submitted to and approved in writing by the Council before any work commences. Notwithstanding this recommendation it is considered that the amount of noise and general disturbance that will be generated by the proposed use cannot be fully assessed via a noise assessment, given the need for children at the ages who will attend the premises to have unrestricted access to outdoor areas. It is considered that the proposal will give rise to an adverse level of noise and general disturbance that would have a severely detrimental effect on the amenity of neighbouring residents. The proposal would therefore be in direct conflict with policy ENV3.7 of the UDP which states planning permission will not be granted for new development which, amongst other things, is likely to give rise to noise or other nuisances, where such impacts would be beyond acceptable standards.

Highway issues

The Council's Transportation Unit have indicated that 5 No. staff are likely to be employed and the revised parking layout is based on 5 No. staff parking spaces and 2 No. spaces for visitors.

They have further indicated that from the significant number of objections to this proposal, highways in the vicinity are subject to significant traffic flows and on street parking demand. Indeed, this was observed during a site visit on Monday 7th November between 0820hrs and 0900 hrs. The majority of on street parking was generated by visitors to the nearby school at Broom Road. Parking did occur in Broom Crescent fronting the site for 20 minutes or so but cleared at around 0900hrs.

The Transportation Unit have stated the proposal, if implemented, is likely to result in additional demand for on street parking, notwithstanding the proposed on site provision and the sustainable location of the site which is in the vicinity of a bus route. However, Broom Crescent has a relatively wide carriageway (some 7.3 metres) and is capable of accommodating on street parking whilst still allowing the street to function. Furthermore, the proposed facilities are intended to operate between the hours of 0700 and 1800 which would distribute traffic movements/parking demand over a longer period than is traditionally associated with a school.

In light of the above the Transportation Unit have concluded that the traffic/parking demand likely to be generated by the proposed use will not result in a material adverse impact in road safety terms.

However, they have stated that consideration should be given to the potential loss of amenity by local residents in the event of additional parking taking place in nearby residential streets.

Impact on the protected Monkey Puzzle tree

According to the application form submitted there are no trees or hedges on the site or on adjoining land that could influence the proposed development. However, there are trees and hedges on site, including a mature Monkey Puzzle tree which is protected as T1 of Tree Preservation Order No. 4 2010 and is a tree whose retention is desirable due to its amenity value in the area.

From the information submitted it is unclear if any of the existing trees and hedges will be retained as part of any development, and it is also unclear how the future prospects of any existing trees and hedges will be safeguarded throughout the development and in the future.

It appears that the Monkey Puzzle tree can be retained and future prospects safeguarded throughout any development and in order to help minimise any impact of the proposed development on the prospects of the Monkey Puzzle tree a permanent fence is recommended by the Council's Arboriculturist to enclose its branch spread. This will help avoid a significant level of pruning that may otherwise be unavoidable to low overhanging branches to reduce the risks of injury by physical contact with the characteristic sharp branches and main stem.

However, notwithstanding the above it is considered that due to a lack of information from the applicant regarding the existing trees and hedges on the site it is not possible to assess the full impact of the development on local amenity, and in particular the valuable and important amenity provided by the existing Monkey Puzzle tree protected as T1 of Tree Preservation Order No. 4 2010.

It is also of note that the Council's Early Years department have raised concerns about the tree in relation to the safety of children who would have to use the area around the tree as their outdoor play space, as there is no other space. They have indicated that the tree should be fenced off due to the fact that the tree has sharp spiny leaves that pose a danger to small children and the tree's large seeds pods which have hard shells and are roughly the size of a coconut can be shed intermittently.

Conclusion

Having regard to all of the above, it is considered that although the extensions are acceptable in terms of their size, design and impact and the proposal is not considered to have any adverse effect on the adjacent highways; the proposal would have a detrimental impact on the amenity of neighbouring residents by way of noise and general disturbance significantly over and above normal levels for a residential area. This disturbance could not be controlled to an acceptable level through any mitigation or planning condition and as such the application is recommended for refusal.

RB2011/1486

Demolition of existing polytunnel, erection of extension to shop to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, erection of 2.4m high mesh fence to replace existing palisade fence and change of use of derelict land to form open plant sales area (renewal of RB2008/1359) at Fosters Garden Centre, Doncaster Road, Thrybergh.

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:

Development Plan:

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".

Policy ENV2.2 'Interest outside Statutorily Protected Sites,' states: "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."

Policy ENV2.3 'Maintaining the Character and Quality of the Environment,' states: "In considering any development or other proposals which would unavoidably damage an existing environmental interest, prior to determining a planning application, the Council will require the application to be supported by adequate survey, evaluation, recording and, where appropriate, details of renovation or repair of historic fabric and rescue or relocation of features or species of particular merit. Damage to the existing environmental interest should be reduced to a minimum and, where possible, the interest which is retained should be enhanced. In addition there must be adequate compensation for any significant losses through landscaping, habitat creation or other environmental enhancement."

Policy 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 ENV2.8 'Settings and Curtilages of Listed Buildings,' states: "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 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."

Policy RET6.2 'Garden Centres,' states: "Garden Centres will be permitted on sites adjacent to main road frontages on the edge of built-up areas, provided that each proposal is acceptable in environmental, amenity and highway terms and would not result in an unacceptable intrusion into the open countryside as a result of its built development, cultivation, display or car parking needs."

Other relevant material planning considerations:

Supplementary Planning Guidance –Environment Guidance 2: 'Alterations to Listed Buildings,' offers advice upon the best practice for the repair and alterations of listed buildings.

PPG2 'Green Belts,' states that there is a presumption against inappropriate development in the Green Belt unless there are very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.

PPS9 'Biodiversity and Geological Conservation,' states Plan policies and planning decisions should aim to maintain and enhance restore or add to biodiversity and geological conservation interests.

PPS5 'Planning for the Historic Environment,' states that: "In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals."

The Government's guidelines "Greater Flexibility for Planning Permissions" provides measures to allow applicants to submit applications to extend the time limits for implementing planning permissions have recently 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 "October 2009.

For the following reasons:

Planning permission has previously been granted for the proposed development (under reference RB2008/1359) and the current application relates to an extension of time for implementation of that planning permission.

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 planning permission and there are no material considerations to indicate that permission should not be granted.

In view of the above, it is once again considered that by way of the enhancement of the character and setting of the listed building, the retention and creation of new jobs, and the ecological enhancement, there are very special circumstances to clearly outweigh the harm caused by the inappropriateness of that part of the development in the Green Belt.

It is further considered that there will be no materially additional adverse effect on the residential amenities of adjoining occupiers by way of the proposal's scale, massing and design, or additional generated activity.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. 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.

Reason

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

02

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

(Drawing numbers C0764-01C,-03B,-04D,-05,-06B,-07 and -08 received on 12/06/2008 & 30/09/2008)

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

To ensure the historic and architectural character of the building is properly maintained, in accordance with policy ENV2.6 'Alterations to Listed Buildings,' of the adopted UDP.

04

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

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

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

Reason

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

05

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.

Reason

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

Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

06

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

Reason

In order to promote sustainable transport choices.

07

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

Reason

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

08

Within six months of the commencement of the development hereby approved, the existing palisade fence around the site shall be replaced by a 2.4m high paladin fence, which shall be coloured Sherwood Green.

Reason

In the interests of visual amenity and the character of the Green Belt in accordance with Policy ENV3.1 'Development and the Environment.'

09

That part of the site allocated Green Belt shall only be used for open sale of trees shrubs and plants, and no buildings shall be erected without the prior written approval of the Local Planning Authority.

Reason

In the interests of the openness and character of the Green Belt in accordance with policies ENV1 'Green Belts,' and ENV3.1 'Development and the Environment.'

10

Before the development hereby approved is commenced on site a scheme of ecological enhancement shall be submitted to and approved by the Local Planning Authority and

the approved scheme shall be implemented within six months of the approved development being completed.

Reason

In the interests of the ecology of the area in accordance with Policies ENV2.2 'Interest outside Statutorily Protected Sites' and ENV2.3 'Maintaining the Character and Quality of the Environment.'

11

Before the development hereby approved is commenced on site, details of a scheme of search for Great Crested Newts and other amphibians in the area, along with any necessary mitigating measures in the event of the finding of any animals, shall be submitted to and approved by the Local Planning Authority and shall be implemented before the development is commenced on site.

Reason

In the interests of the ecology of the area in accordance with Policies ENV2.2 'Interest outside Statutorily Protected Sites,' and ENV2.3 'Maintaining the Character and Quality of the Environment.'

Informatives

01

INF 4 Japanese knotweed

The application site contains Japanese knotweed. This is a highly invasive plant, the treatment of which must comply with Section 14(2) of the Wildlife and Countryside Act (as amended) 1981 and sections 33 and 34 of the Environmental Protection Act 1990. It is advised that the Council's Neighbourhoods Service (Tel: 01709 823172) or the Environment Agency (Tel: 0113 2440191) is contacted to provide advice on how it should be treated and / or disposed of.

The Code of Practice for the Management, Destruction and Disposal of Japanese Knotweed on development sites can be found on the Environment Agency website: www.environment-agency.gov.uk

02

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

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

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

until such times as the site/weather conditions improve such as to permit a resumption.

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

03

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.

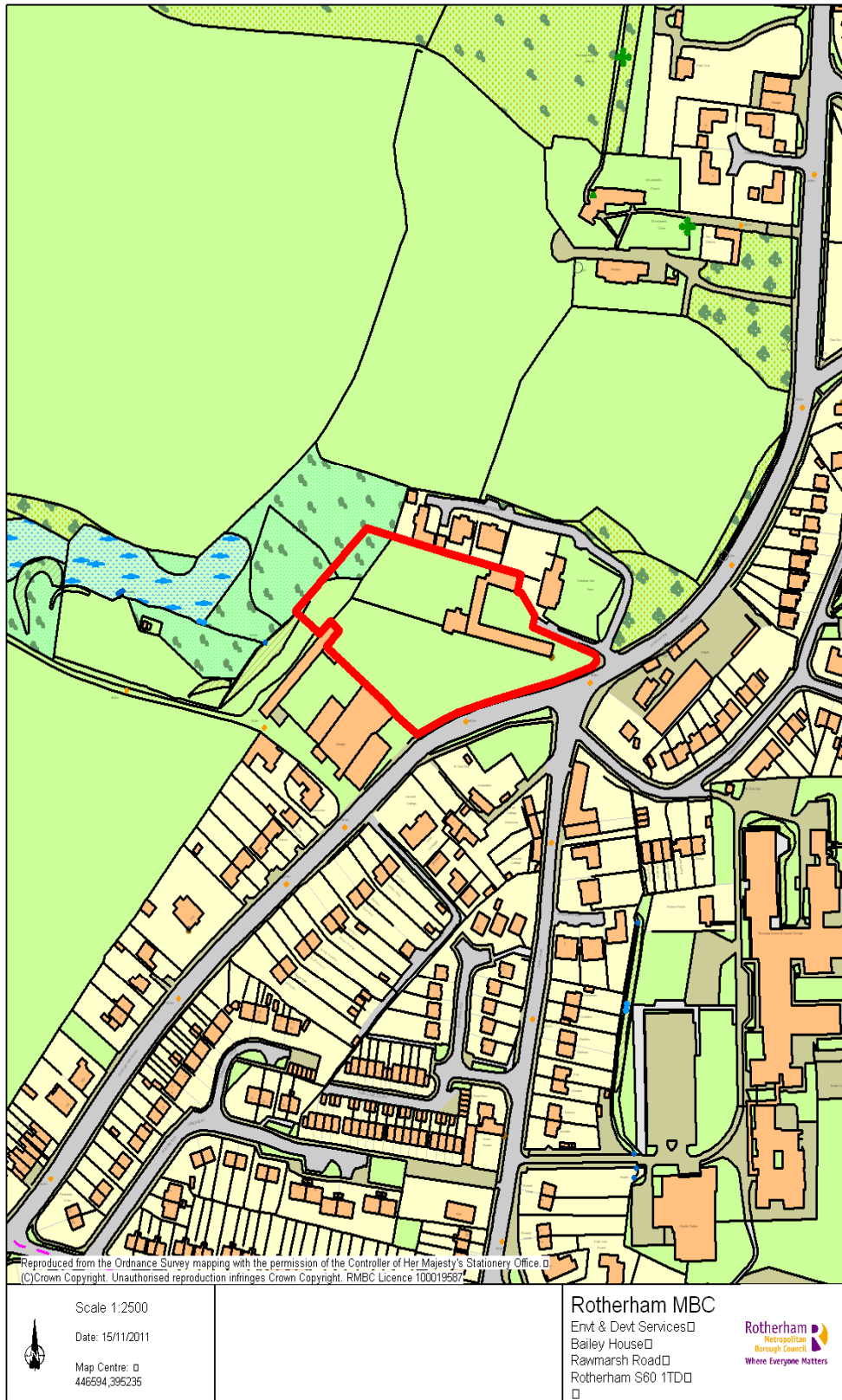
Otters and their holts, including hovers and couches, which are otter resting places above ground, are protected by UK and European legislation.

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 1st October 2009.

The site to which the application relates has a long established planning history relating to its authorised use as a garden centre, the most relevant applications relating to this application being:

RB2008/1359 - Demolition of existing polytunnel, erection of extension to shop to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, erection of 2.4m high mesh fence to replace existing palisade fence and change of use of derelict land to form open plant sales area
GRANTED CONDITIONALLY 30/10/08.

The current application is for an extension of time for the above permission to allow implementation.

A further application (RB2011/1502) can be found elsewhere on this agenda and seeks renewal of a related Listed Building Consent (RB2008/1356) for demolition of polytunnel, erection of extension to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, and replacement of palisade fence with 2-4m high mesh fence.

A screening opinion was carried out to determine whether an Environmental Impact Assessment should accompany the application. The proposed development falls within the description contained in paragraph 10 (b) of the 2011 Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and meets the criteria set out in column 2 of the table, i.e. that the area of the development exceeds 0.5 hectares. However, taking account of the criteria set out in Schedule 3, the opinion has been reached 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 and therefore an Environmental Impact Assessment is not required to accompany the application.

Site Description & Location

The application site is located to the north side of Doncaster Road and comprises of a garden centre with a mix of modern and older buildings plus open storage and parking areas. The older buildings comprise former barn / agricultural stone buildings predominantly two storeys in height set underneath a concrete tiled roof and are Grade II Listed. The remainder of the site is an area of land outside the current garden centre boundary, within the Green Belt and identified as part of a site with a 'Known Interest Outside a Statutorily Protected Site', measuring approximately 15m by 60m. The total application site area is approximately 0.86 hectares.

The site is enclosed by a dwarf stone wall fronting Doncaster Road with the open storage areas secured via a 2.4 metre high galvanised palisade fence. There is a polytunnel located between the listed building and Doncaster Road and the buildings opposite to the east are those which form Deer Park Farm. To the north of the site is recent residential development on Chestnut Court, whilst the area to the south west is the remainder of the garden centre including car parking, storage, and workshops as well as the petrol filling station and cycle shop.

Proposal

The application is for the renewal of the previous planning permission (RB2008/1359) which seeks to demolish part of the existing buildings (76sq metres), the erection of an extension to the existing shop to form a kitchen area (126 sq metres), the erection of attached glass houses with associated entrance canopy on the existing open sales area (900 sq metres), partial removal of mezzanine floor (1,061 sq metres in total), erection of 2.4m high mesh fence to replace existing palisade fencing, and change of use of derelict land to form open plant sales area (900 sq metres of Green Belt land) which is currently surfaced but unused and gradually being absorbed into the natural landscape. The extended area would be surrounded further with 2.4metre high paladin fencing.

The kitchen extension would be attached to the eastern end of the Listed Building and have a slate roof to match, with ventilation cowls, and horizontal timber boarding to the walls. It would require the removal of an existing set of external stone steps. A glazed section of the extension would wrap around the rear of the building and serve a coffee shop seating area. The glasshouses would be attached at the western end of the existing building and would be of a steel frame construction with a polycarbon roof and horizontal timber cladding to the walls. A new entrance point would be incorporated with a gable roof.

The application contains a supporting statement which indicates that the proposals are to rationalise the existing floor space area, so that customer flows within the site and buildings are logical, and without congestion points. The main thrust of the proposals is to enable the business to display more goods for longer periods of the year, and thereby compete better with other expanding garden centres in the area, to preserve the equivalent of 26.5 existing full time jobs and generate the equivalent of an additional 3.5 full time jobs.

The statement also indicates that the proposals would remove an unsightly polytunnel, open up better views of the structure of the Listed Building from within and unblock existing stoned up archways within the fabric of the building. The proposal would result in the loss of 7 car parking spaces leaving a total of 108 spaces within the site. Information has also been submitted indicating that by its nature the use is well used by car borne customers, but that there are residential properties nearby and the site is well served by public transport.

Finally the statement indicates that the proposals will provide rehabilitation of derelict land within the Green Belt and enhancement of the local ecology. An ecological assessment has been submitted which indicates that the Green Belt land within the application site is relatively poor as a potential wildlife habitat due to its composition of tipped material and hard core, though there is significant potential in the adjacent landscape which contains ponds, dense scrub and grassland. An area of Japanese knotweed has been identified within the site.

Development Plan Allocation and Policy

The majority of the site is allocated for retail purposes, with approximately 900 sq metres allocated Green Belt, and within part of a site of 'Known Interest Outside a Statutorily Protected Site' in the adopted Unitary Development Plan. Relevant policies are:

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".

Policy ENV2.2 'Interest outside Statutorily Protected Sites,' states: "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."

Policy ENV2.3 'Maintaining the Character and Quality of the Environment,' states: "In considering any development or other proposals which would unavoidably damage an existing environmental interest, prior to determining a planning application, the Council will require the application to be supported by adequate survey, evaluation, recording and, where appropriate, details of renovation or repair of historic fabric and rescue or relocation of features or species of particular merit. Damage to the existing environmental interest should be reduced to a minimum and, where possible, the interest which is retained should be enhanced. In addition there must be adequate compensation for any significant losses through landscaping, habitat creation or other environmental enhancement."

Policy 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 ENV2.8 'Settings and Curtilages of Listed Buildings,' states: "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 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."

Policy RET6.2 'Garden Centres,' states: "Garden Centres will be permitted on sites adjacent to main road frontages on the edge of built-up areas, provided that each proposal is acceptable in environmental, amenity and highway terms and would not result in an unacceptable intrusion into the open countryside as a result of its built development, cultivation, display or car parking needs."

Other Material Considerations

Supplementary Planning Guidance –Environment Guidance 2: 'Alterations to Listed Buildings,' offers advice upon the best practice for the repair and alterations of listed buildings.

PPG2 'Green Belts,' states that there is a presumption against inappropriate development in the Green Belt unless there are very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.

PPS9 'Biodiversity and Geological Conservation,' states policies and planning decisions should aim to maintain and enhance restore or add to biodiversity and geological conservation interests.

PPS5 'Planning for the Historic Environment,' states that: "In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals".

The Government's guidelines "Greater Flexibility for Planning Permissions," provides measures to allow applicants to submit applications to extend the time limits for implementing planning permissions have recently 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 "October 2009.

Publicity

Both this application and the accompanying Listed Building consent application have been advertised on site and in the local press and adjoining residents notified by letter. No representations have been received by the Council.

Consultations

Transportation Unit – Raises no objections to the renewal application subject to the imposition of conditions.

Director of Housing & Neighbourhoods (Environmental Health) - Raises no objections to the renewal application subject to the imposition of informatives in respect of hours of working.

Ecology Officer - Raises no objections to the renewal application subject to the imposition of conditions and informatives in respect of protection of Great Crested Newts and Japanese Knotweed.

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 the extension of time for planning permission granted on 30th October 2008. The main issues with regard to this application were considered fully at that time and are: -

- (i) If that element of the proposal within the Green Belt is inappropriate development and if so are there any very special circumstances to overcome the presumption against granting permission;
- (ii) The effect on the amenities of adjoining occupiers;
- (iii) The effect on the ecology of the area; and
- (iv) The effect on the character of the listed building.

Since consideration of the application there have been no material changes in circumstance of the site, with the only relevant policy change being the replacement of previous national guidance contained in PPG15: 'Planning and the Historic Environment' and PPG16: 'Archaeology and Planning,' with PPS5 'Planning for the Historic Environment.' However, this new advice change is considered in more detail in the accompanying Listed Building Consent application (RB2011/1502) which can be found elsewhere on this agenda.

Conclusion

Planning Permission has previously been granted for the proposed development (under reference RB2008/1359) 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 planning 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.

Having regard for all the above, it is considered that there are no significant policies which have changed since the original granting of planning permission and there are no material considerations to indicate that permission should not be granted. The proposals by way of the enhancement of the character and setting of the listed building; the retention and creation of new jobs; and the ecological enhancement, demonstrate these amount to the very special circumstances which exist to clearly outweigh the harm caused by the inappropriateness of that part of the development in the Green Belt.

It is further considered that there will be no materially additional adverse effect on the residential amenities of adjoining occupiers by way of the scale, massing and design, or additional generated activity from the proposal.

It is therefore recommended that the renewal of planning permission be granted, subject to the recommended conditions.

RB2011/1502

Listed Building Consent for demolition of polytunnel, erection of extension to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, replacement of palisade fence with 2.4m high mesh fence (renewal of RB2008/1356) at Fosters Garden Centre, Doncaster Road, Thrybergh for Fosters Garden Centre

RECOMMENDATION: GRANT CONDITIONALLY

STATEMENT OF REASONS FOR DECISION TO GRANT LISTED BUILDING CONSENT

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

Development Plan:

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 ENV2.8 'Settings and Curtilages of Listed Buildings,' states: "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."

Other relevant material planning considerations:

Supplementary Planning Guidance –Environment Guidance 2: 'Alterations to Listed Buildings,' offers advice upon the best practice for the repair and alterations of listed buildings.

Planning Policy Statement 5: (PPS5) 'Planning and the Historic Environment,' (PPS5) states that: "In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals."

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 Listed Building consents, but only where these are associated with an application for extension of a planning permission.

For the following reasons:

Listed Building Consent has previously been granted for the proposed development (under reference RB2008/1356) 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 Listed Building consent and there are no material considerations to indicate that consent should not be granted.

In view of the above, the Council considers that the proposals would be contributory to a continuing viable use for this Listed Building which would ultimately secure its future.

Additionally the Council further considers that the proposal, by virtue of the polytunnel removal and partial removal of mezzanine floor and the opening up of stoned archways, will enhance the character and setting of the Listed Building.

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

Conditions & Reasons Imposed:

01

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

Reason

In order to comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) 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 C0764-01C,-03B,-04D,-05,-06B,-07 and -08 received on 12/06/2008 & 30/09/2008)

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

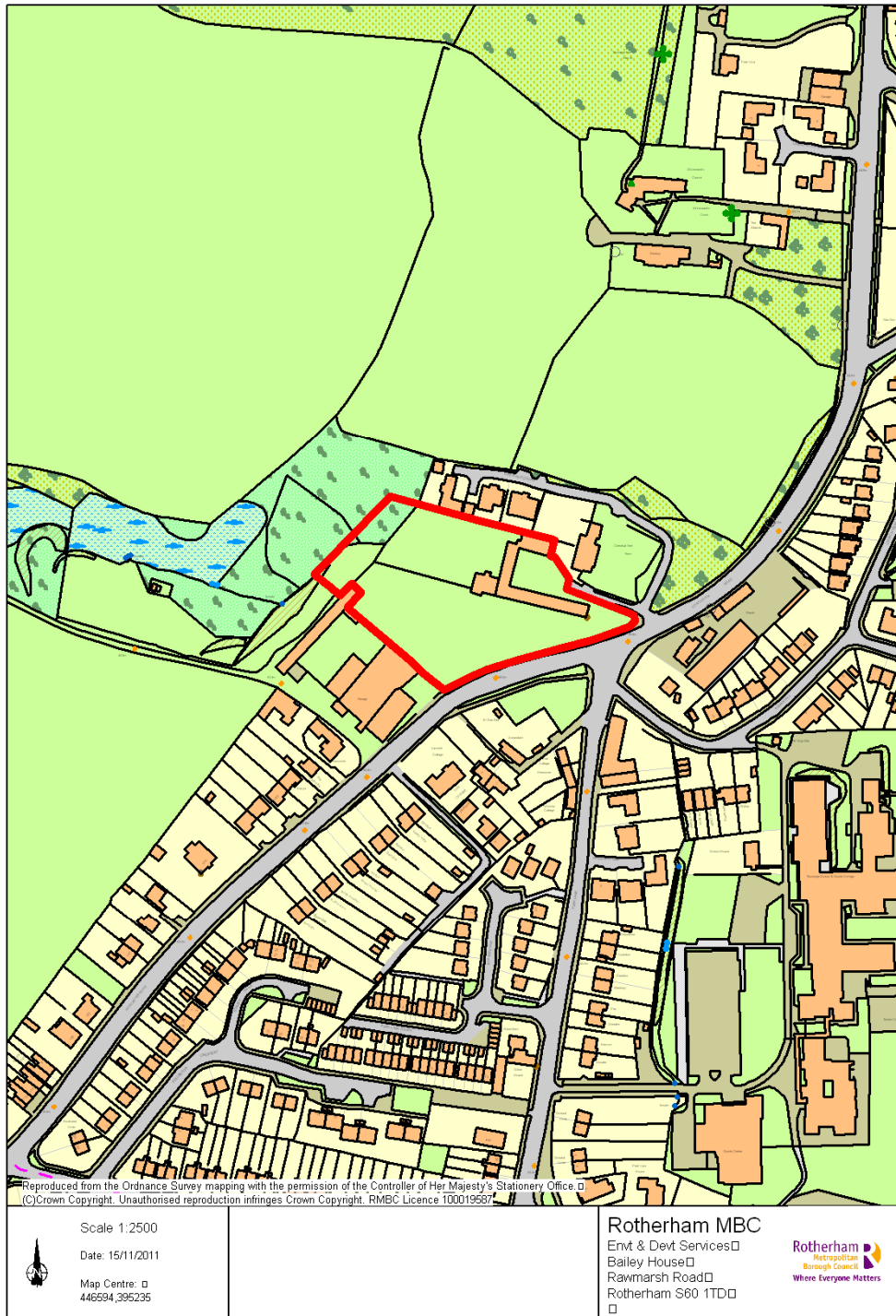
To ensure the historic and architectural character of the building is properly maintained, in accordance with policy ENV2.6 'Alterations to Listed Buildings,' of the adopted UDP.

04

Following completion of the building operations for which consent is hereby granted, all 'making good' of the existing building shall be carried out in materials which closely match those used in the existing building.

Reason

To ensure the historic and architectural character of the building is properly maintained, in accordance with policy ENV2.6 'Alterations to Listed Buildings,' of the adopted UDP.



Background

Measures to allow applicants to submit applications to extend the time limits for implementing planning permissions (and related Listed Building 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 1st October 2009.

The site to which the application relates has a long established planning history relating to its authorised use as a garden centre, the most relevant applications relating to this application being:

RB1998/0523 - Listed Building Consent for erection of cover to existing sales area and covered walkway.
GRANTED CONDITIONALLY 18/06/98.

RB2008/1356 - Listed Building Consent for demolition of polytunnel, erection of extension to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, replacement of palisade fence with 2.4m high mesh fence.
GRANTED CONDITIONALLY 30/10/08.

The current application is for an extension of time for the above consent to allow implementation.

A further application (RB2011/1486) can be found elsewhere on this agenda and seeks renewal of a related planning permission (RB2008/1359) for demolition of existing polytunnel, erection of extension to shop to form kitchen, erection of attached glasshouses with associated entrance canopy, partial removal of mezzanine floor, erection of 2.4 metre high mesh fence to replace existing palisade fence and change of use of derelict land to form open plant sales area.

Site Description & Location

The application site is located to the north side of Doncaster Road and comprises of a garden centre with a mix of modern and older buildings plus open storage and parking areas. The older buildings comprise former barn / agricultural stone buildings predominantly two storeys in height set underneath a concrete tiled roof and are Grade II Listed.

The site is enclosed by a dwarf stone wall fronting Doncaster Road with the open storage areas secured via a 2.4 metre high galvanised palisade fence. There is a polytunnel located between the listed building and Doncaster Road and the buildings opposite to the east are those which form Deer Park Farm. To the north of the site is recent residential development on Chestnut Court, whilst the area to the south west is the remainder of the garden centre including car parking, storage, and workshops as well as the existing petrol filling station and cycle shop.

Proposal

The application is for the renewal of the previous Listed Building consent (RB2008/1356) which includes: -

- The removal of the polytunnel fronting Doncaster Rd;
- Unblock existing stoned up archways within the fabric of the building; and
- Partially remove a mezzanine floor.

Development Plan Allocation and Policy

The site is allocated for retail purposes in the adopted Unitary Development Plan. Relevant policies are:

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 ENV2.8 'Settings and Curtilages of Listed Buildings,' states: "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."

Other Material Considerations

Supplementary Planning Guidance –Environment Guidance 2: 'Alterations to Listed Buildings,' offers advice upon the best practice for the repair and alterations of listed buildings.

Planning Policy Statement 5: (PPS5) 'Planning and the Historic Environment,' (PPS5) states that: "In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals".

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 application and the accompanying planning application have been advertised on site and in the local press and adjoining residents notified by letter. No representations have been received by the Council.

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 Listed Building 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 internal works to the listed building to partially remove a mezzanine floor; unblock existing stoned up archways within the fabric of the building; and remove the polytunnel fronting Doncaster Road granted consent on 30th October 2008. The main issues with regard to this application were considered fully at that time.

In respect of policy and advice changes relevant to this application, there has only been one revision and that is the replacement of previous national guidance contained in PPG15: 'Planning and the Historic Environment' and PPG16: 'Archaeology and Planning,' with PPS5 'Planning for the Historic Environment.' This new advice, whilst following the general approach of the former SPG's regarding the importance of historic heritage and archaeology, places the emphasis upon the need to evaluate and preserve assets and their settings. It is, however, not considered that there have been any further material considerations or new issues raised that have changed significantly since the original grant of consent.

Conclusion

Listed Building consent has previously been granted for the proposed development (under reference RB2008/1356) 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 Listed Building consent and there are no material considerations to indicate that consent should not be granted. The proposed alterations to the building by the partial removal of the mezzanine floor and the opening up of the building by unblocking the existing stoned up archways within the fabric of the building will not have any undue detrimental effect on the architectural character and appearance of this 'heritage asset.' In addition, the removal of the polytunnel will enable the important character and setting of the building to be realized in accordance with the above referred to Policies and advice.

To the Chairman and Members of the
PLANNING REGULATORY BOARD

24 November 2011

Report of the Director of Planning and Regeneration Service

<u>ITEM NO.</u>	<u>SUBJECT</u>
1	Ref: CC1975/0022
Page No. 150	Withdrawal of Enforcement Notice in relation to land at Common Road, North Anston (now known as Brickyard Cottage, Common Road, North Anston).
2	Ref: RB1999/1350PN
Page No. 151	Appeal Decision – Dismissed and Enforcement Notice upheld. Enforcement Notice appeal against an enforcement notice requiring demolition of building at Falconer Farm, Smallage Lane, Fence
3	Ref: RB2011/0609
Page No. 154	Appeal Decision – Dismissed Erection of two storey front extension at 120 Greenland Avenue, Maltby for Mrs. S. Beach.
4	Ref: RB2011/0404
Page No. 157	Appeal Decision – Allowed Retrospective permission for raising rear garden 300mm and erection of new front boundary wall at No.11 Hooper Court, Rawmarsh for Mr. G. Watson.
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ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY
BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE
24TH NOVEMBER 2011

ITEM 1

Ref: CC1975/0022

Withdrawal of Enforcement Notice in relation to land at Common Road, North Anston (now known as Brickyard Cottage, Common Road, North Anston).

Recommendation: -

That pursuant to Section 173A of the Town and Country Planning Act 1990, the Enforcement Notice issued in relation to the land at Common Road, North Anston (now known as Brickyard Cottage), which required discontinuation of use of land for storing scrap metal and removal of scrap metal, be withdrawn as the requirements of the Notice have now complied with by clearance of the site and discontinuance of use for storing scrap metal.

Background

An Enforcement Notice was served on J E Myers and E H Dicksbury, on 3rd December 1975 requiring the discontinuation of use of land for storing scrap metal and removal of scrap metal

A planning application was submitted on 17th October 1997 under planning reference RB1997/1231 for the demolition of existing cottages and the erection of dwellinghouse and double garage and this permission has been implemented.

Historic photographs show that the site was cleared between the serving of the enforcement notice and 1999, and has remained clear of scrap metal since. The current owner of the property is in the process of selling it and has requested that the Enforcement Notice be withdrawn.

Section 173A of the Town and Country Planning Act 1990, allows Local Planning Authorities to vary or withdraw enforcement notices. Section 173A states:

“(1) The Local Planning Authority may–

- (a) withdraw an enforcement notice issued by them; or
- (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173.

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The Local Planning Authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the Local Planning Authority to issue a further enforcement notice.”

It is considered that the requirements of the Enforcement Notice have now been fully complied with and, as such, the Enforcement Notice, in line with Section 173A of the 1990 Act, should be withdrawn from the property (Brickyard Cottage, Common Road, North Anston).

If Members agree to the withdrawal of the Enforcement Notice then notice would be given to every person that the Notice was served on.

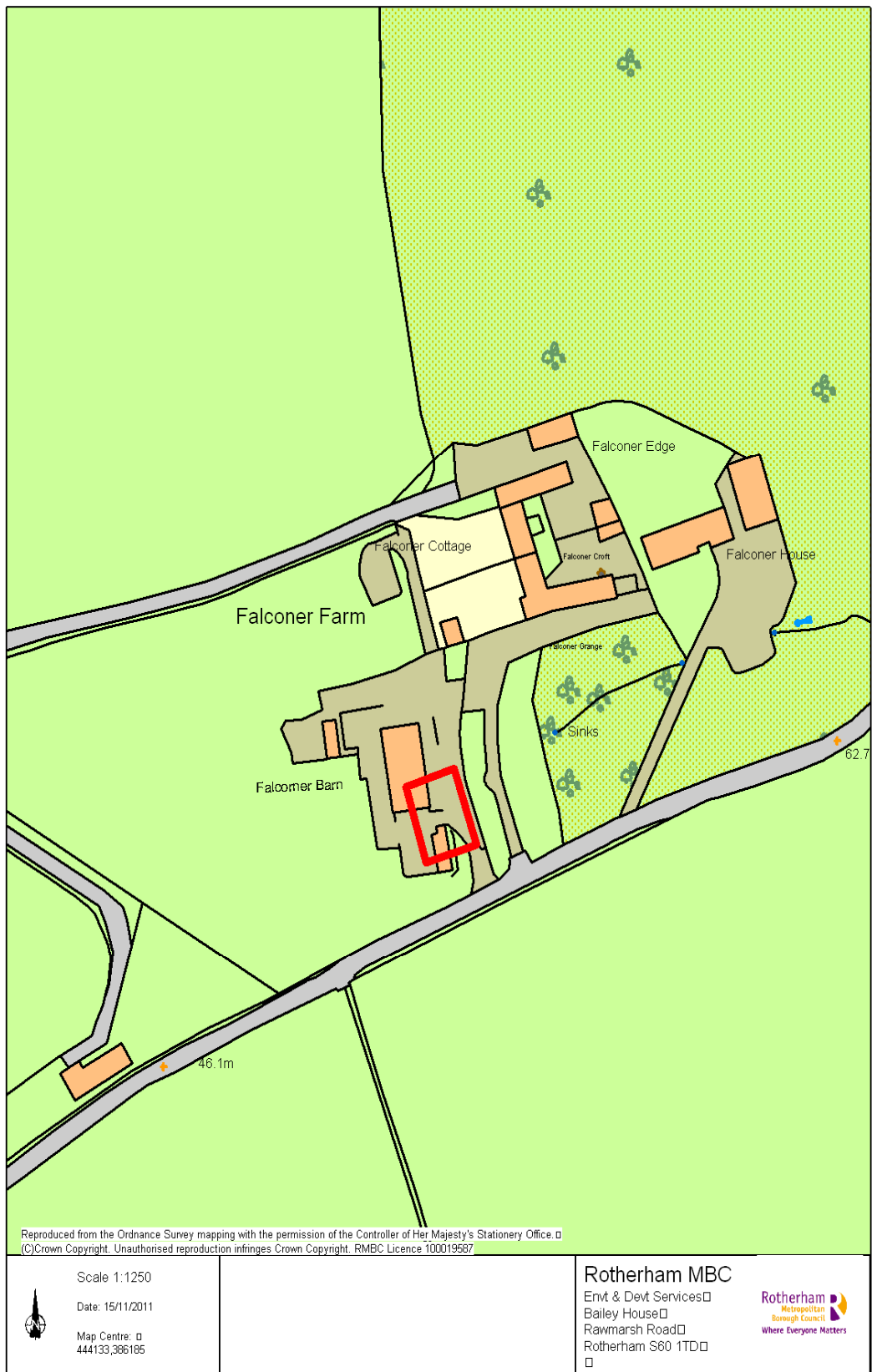
Conclusion

To conclude, it is noted that the requirements of the Enforcement Notice have been fully complied with as the land has been cleared of scrap metal and the use of land to store scrap metal has ceased. As such, the Enforcement Notice should be withdrawn under Section 173A of the Town and Country Planning Act 1990.

ITEM 2	Ref: RB1999/1350PN
Appeal Decision – Dismissed and Enforcement Notice upheld. Enforcement Notice appeal against an enforcement notice requiring demolition of building at Falconer Farm, Smallage Lane, Fence	

Recommendation

That the decision to dismiss the appeal and uphold the Enforcement Notice be noted.



Background

A Prior Notification application for the erection of a 'Dutch' barn on the site was submitted by Mr Crump and approved in 1999 (RB1999/1350PN). The application file indicates that the building was accepted, despite being "inappropriate to the scale of the farm holding". and that: "The submitted details show a simple yet handsome hipped roof building, built in brick with round-arched openings to all four sides. There is, however, concern that such a building would not be relevant to the needs of this holding (which is only 7 hectares) and would lend itself to future residential conversion."

It became apparent during the construction of the building that it was not being built in accordance with the approved plans, and Mr Crump wrote requesting that he could convert the building to residential use, though was informed that this would represent inappropriate development. This was due to the fact that the building was erected under Schedule 2 Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 which states that if an agricultural building constructed under permitted development rights ceases to be used for agriculture within ten years of its substantial completion, it should be demolished. As such, it was an unauthorised structure and any proposal for residential development would have to consider the erection of the building itself.

Nevertheless, a planning application was submitted which was refused, and a subsequent appeal dismissed. Due to the personal circumstances of Mr Crump at the time it was not considered appropriate to pursue enforcement action in respect of the demolition of the building, and it was hoped that it would indeed be used for agricultural purposes, though there is no evidence that this has occurred.

A further application for change of use of the barn to 4 No holiday apartments was refused in June 2010 (RB2010/0478), and again an appeal was dismissed.

An Enforcement Notice was issued and came into effect on 3 March 2011 requiring:-

1. Removal the building from the land.
2. Restoration of the land to the condition it was in before the development took place.

The period for compliance with the requirements is 6 months.

Inspector's decision

An appeal was lodged with the Planning Inspectorate on 16 May 2011 but only in respect of 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 the barn is a substantial building in the Green Belt. Various attempts to gain planning permission for an alternative use have failed in the past. A planning application and subsequent appeal were refused in 2006 and again in 2010. The condition attached to the original permission granted by the Town and Country Planning (General Permitted Development) Order 1995 as amended is clear, and requires the barn to be removed if it ceases to be permanently used for agriculture within 10 years from the date it was built. There is no doubt it was built within the last 10 years, and the appellant offers no evidence that it has not permanently ceased to be used for agriculture.

The Inspector has considered the appeal on ground (f) alone, and the appellant has provided no evidence or explanation as to what lesser works might be appropriate. Consequently the Inspector considered that the requirements of the Notice, to remove the building and restore the land, are perfectly reasonable and the appeal on ground (f) should fail.

The Inspector noted the appellant's comments that the barn has been sold to a charity, but since no evidence has been submitted as to when this took place, the Inspector considered that there was no reason to doubt that the notice was properly served in the first place. The new compliance date for the Notice is 21 April 2012.

It should be noted that a separate planning application has been submitted by Autism Plus to retain the building and use it for horticultural purposes, in connection with the horticultural use of adjoining land. This application was approved by the Chairman and Vice Chairman of the Planning Board and was subject to a condition that the permission shall be solely for the benefit of Autism Plus as it would not have been granted but for the very special circumstances of Autism Plus and their clients. If implemented, it would legitimise the use of the building, though if at some stage in the future Autism Plus stopped using the building, and somebody else began using it, the new operator would have to demonstrate their own very special circumstances to justify retention of the building, or further enforcement action could be pursued.

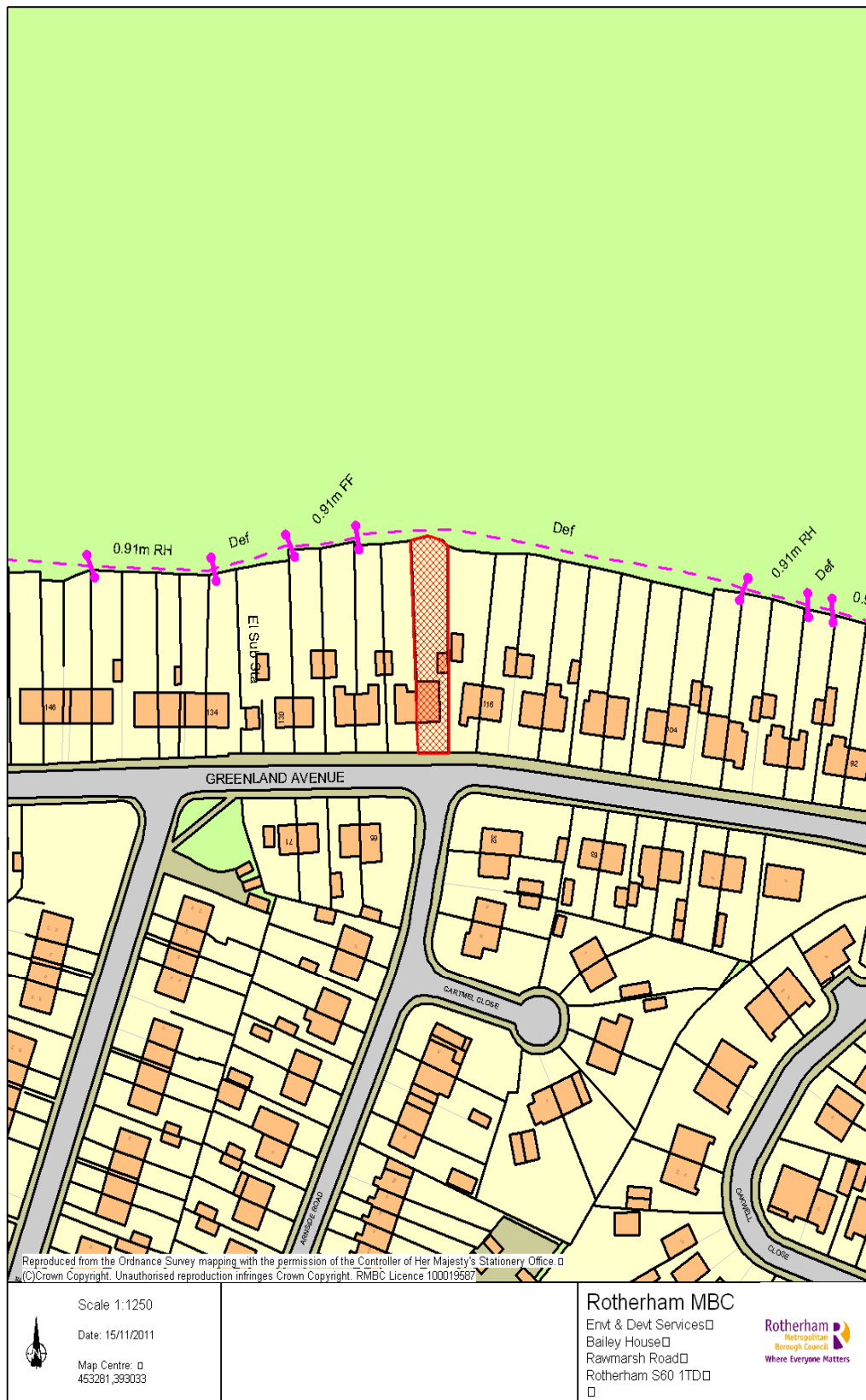
Conclusion

The Inspector concluded that the appeal should be dismissed, for the reasons outlined above, and the Enforcement Notice upheld.

Item 3	Ref : RB2011/0609
Appeal Decision – Dismissed	
Erection of two storey front extension at 120 Greenland Avenue, Maltby for Mrs S Beach (reference no: RB2011/0609)	

Recommendation

That the decision to dismiss the appeal be noted.



Background

The application relates to a semi-detached dwelling located in a residential area north of Maltby town centre. The property is located in the middle of a long row of semi-detached properties which all follow a similar building line to the front. The properties immediately adjacent to this property are all of a similar basic design constructed in the 1960's, whilst to the western end of the road are some older flat roofed properties. Some of the adjacent dwellings have been extended to the front by the addition of canopies and single storey extensions. A planning application was received on 28 April 2011 to erect a two storey front extension to form a porch with bedroom extension over it. The application was subsequently refused under Delegated powers on 28 June 2011 for the following reason:

01

The Council considers that the proposed two storey front extension, by virtue of its design, size and location, will form an incongruous addition which will be out of keeping with and detrimental to the design and appearance of the original dwellinghouse and detrimental to the character and appearance of the wider street scene, contrary to Policy ENV3.1 'Development and the Environment' of the adopted Unitary Development Plan and the advice in Supplementary Planning Guidance, Householder Development and PPS1 'Delivering Sustainable Development.'

Inspector's decision

An appeal was lodged with the Planning Inspectorate on 28 September 2011. The Inspector considered that the main issue was the effect of the proposal on the character and appearance of the existing dwelling and the street scene. The Inspector noted that the appeal property was located in a road of similar dwellings which were broadly on the same building line. Several of the adjacent properties have single storey porch or porch and lounge extensions to the front but the Inspector considered that they had a consistent character and appearance. The proposed extension would be the only one in this road which would be of 2 storey height.

The depth of the proposed extension would be approximately 2.4m whereas the adopted Supplementary Planning Guidance states that the Council will normally allow 2 storey front extensions up to 2m deep but that these should be modest in scale and preserve and reflect the architectural features of the existing house. Additionally, saved Policy ENV3.1 of the Rotherham Unitary Development Plan (1999) (UDP) has the objective of securing development that makes a positive contribution to the area and has a relationship with its context.

The Inspector noted the effect of the existing 2-storey extension at No.28 Arnside Road (Ref RB2008/0819), in a different road opposite the appeal site, on the appearance of that dwelling and considered that, if repeated at the appeal site in the context provided by the more open and consistent linear context of Greenland Avenue, it would be more obviously incompatible. The

effect of the gable on the front elevation and the second floor element of the design would also upset the simple balanced appearance of the present façade. The Inspector considered that the decision to allow the development in Arnside Road weakens the Council's case in relation to the effect on the appearance of the existing building but concluded that the proposed extension would have a harmful effect on the character and appearance of the existing dwelling and the street scene. As such it would be in conflict with objectives of UDP Policy ENV3.1 and the SPG.

Conclusion

The Inspector concluded that the appeal should be dismissed for the reasons outlined above.

Item 4
RB2011/0404

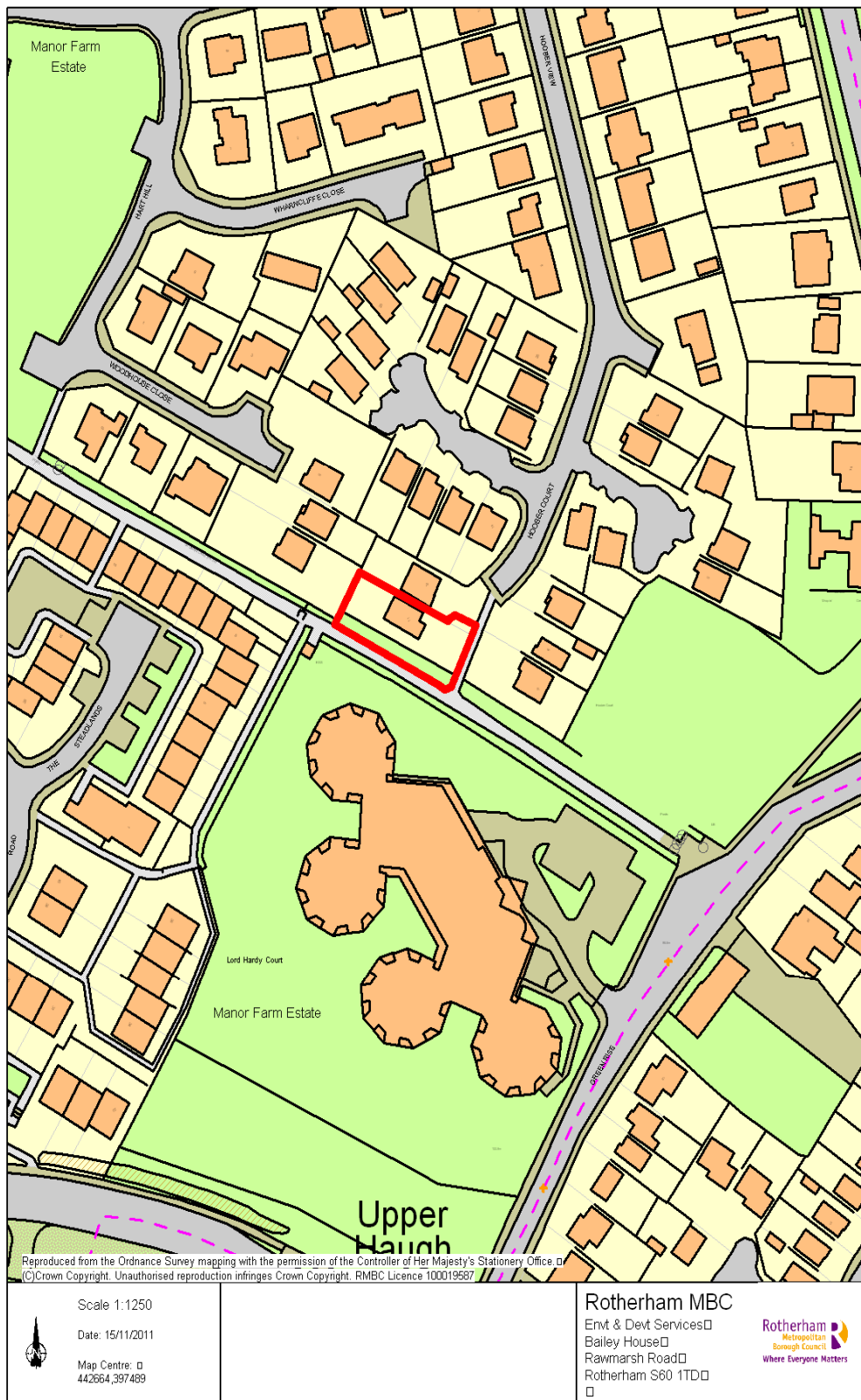
Ref:

Appeal Decision – Allowed

Retrospective permission for raising rear garden 300mm and erection of new front boundary wall at No.11 Hooper Court, Rawmarsh for Mr. G. Watson

Recommendation

That the Planning Inspectorate's decision to allow the appeal be noted.



Background

The application site is located within a residential area of Rawmarsh. No.11 Hooper Court is a two-storey detached dwelling which is located at the cul de sac of Hooper Court. The application site shares the private access with No.12 Hooper Court, the original land level to the rear of the site is approximately 500 mm higher than No.12.

A planning application was received on 15 March 2011 to seek planning permission for raising the land level of rear garden by 300mm and erect a new boundary wall to front. The application was subsequently refused under Delegated power on 29 June 2011 for the following reason:

01

The Council considers that the already completed land raising in the rear garden of this residential property, by virtue of the 300mm increase to the boundary with No.12 Hooper Court, will significantly impact upon the amenities of the occupiers of that dwelling by virtue of direct overlooking to both the private rear garden and conservatory. As such it is considered the proposal contrary to Policy ENV3.1 'Development & the Environment' of the adopted Unitary Development Plan.

An appeal was lodged with the Planning Inspectorate on 7 September 2011.

Inspector's Decision

The Inspector considered that the main issue was the effect of raising the rear garden level by 300mm on the living conditions at No.12 Hooper Court in terms of privacy in the rear garden and conservatory.

The Inspector noted Nos. 11 and 12 Hooper Court are detached houses in a generally residential area. The rear garden of the former is elevated above that of the latter, and a trellis-topped fence divides the two. Notwithstanding the doubts expressed, from the site visit the Inspector concurred with the Council that the application describes the amount (300mm) that the land has been raised by with sufficient accuracy and noted work has already been carried out.

From the raised garden, the trellis-topped boundary fence is very low. It allowed clear views over much of the neighbouring property's (No.12 Hooper Court) rear garden and into its rear conservatory. The Council has put forward a condition requiring the erection of a 1.8 metre high fence along the boundary between the raised land and No.12. Indeed, on the Inspector's site visit, it is noted that such a fence has already been erected. It comprises close-boarded wooden fencing panels with gently curved tops rising to approximately 1.8 metres high set between concrete posts of a similar height. While it is possible to see the rear garden and conservatory of No.12 over this fence, such views are largely limited to glimpses above the lowest part of the curved panels when stood very close to it. In the Inspector's opinion, this fence restricted the degree to which the rear garden and conservatory can be

seen from the raised area to a reasonable and acceptable level. With it in place, the Inspector considered that the normal use of the rear garden of the appeal property would not result in an intrusion of privacy at the neighbouring home.

The Inspector acknowledged both the Council and the occupiers of No.12 have raised concerns about other effects of the fencing. However, the Inspector considered that it does not have a visually overbearing impact on the rear of No.12. While it is high in relation to that property's rear garden and conservatory, it is set back from the boundary, behind the trellis-topped fencing. Because of this, its presence is not visually intrusive. Moreover, the neighbouring rear garden is of a decent size and the conservatory is positioned away from the boundary, such that the presence of the fence is not excessively pervasive. As a consequence of the orientation of the properties and the elevated position of the fence, it would cause shadowing to some portion of the rear garden of No.12 and its rear conservatory during some part of the afternoon. However, the Inspector considered that it is unlikely that the extent of overshadowing or the periods for which it would occur would be so significant so as to warrant resisting the appeal. The impact in this regard would not be substantially different to that commonly experienced in situations where neighbouring homes are set on different levels, and would not be unacceptable.

The Inspector noted the occupiers of number 12 have also raised a number of other concerns, and have taken account of all the evidence. The Inspector agreed with the Council that the new front retaining boundary wall proposed does not harm the character and appearance of the neighbourhood. The materials used reflect those of the house and neighbouring homes, and it generally blends into the street scene.

The Inspector also dismissed the comments about other works undertaken by the appellant; drainage and safety of the stepped footpath as there was no compelling or detailed evidence to conclude a different view.

The Inspector also stated that the ownership of land was largely a private matter and sees no particular reason why it should be a decisive factor in the Inspector's decision in this appeal, which conveys only planning permission and no legal or other rights that may be necessary to undertake the development.

As such, the Inspector considered that raising the rear garden level by 300mm has not caused material harm to the living conditions at No.12 Hooper Court in terms of privacy in the rear garden and conservatory. As such, it would not conflict with broad aims of Policy ENV3.1 of the Rotherham Unitary Development Plan. This requires developments to make a positive contribution to the environment by achieving an appropriate standard of design having regard to the relationship to the locality, scale and height, among other things.

Conclusion

The Inspector concluded that the appeal should be allowed and planning permission is granted for the raising of the rear garden by 300mm and the construction of a new front retaining boundary wall, in accordance with the submitted plans in the planning application RB2011/0404 subject to a planning condition that the close-boarded fence erected along part of the side boundary with No.11 Hoover Court shall be retained at a height of 1.8 metres above the raised land level.

Item 5

Courtesy Consultation Procedures

Recommendation

That the contents of the report be noted.

Background

Members asked for a report setting out the requirements for neighbouring Authorities to consult each other in respect of planning applications submitted.

The statutory requirement for carrying out consultations in respect of planning applications (as opposed to carrying out publicity) is set out in Article 16 of Part 3 of The Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO). Article 16 states:

“Before granting planning permission for development which, in their opinion, falls within a category set out in the Table in Schedule 5, a local planning authority shall consult the authority or person mentioned in relation to that category.”

It adds that no decision on the application can be made until a period of 21 days after the consultation date and that the Local Planning Authority shall, in determining the application, take into account any representations received from a consultee.

Schedule 5 of the DMPO sets out all categories where consultation must take place before any planning application is granted, and paragraph (b) states that for: “Development likely to affect land in Greater London or in a metropolitan county other than land in a National Park”, the relevant Local Planning Authority concerned should be notified. There is no definition as to what ‘likely to affect land’ actually means, and it is down to each Authority to interpret and implement this requirement.

Consultation of adjoining Authorities by Rotherham in respect of planning applications received is carried out on a case by case basis, and I am not aware that there have been any issues raised by adjoining Authorities over a lack of consultation, or indeed by Rotherham due to a perceived lack of consultation by an adjoining Authority. Should a Council member become aware of a proposed development in an adjoining Authority's area and consider that Rotherham Council should comment, they are advised to contact Development Management so we can discuss with the relevant adjoining Authority.

For information, when a Courtesy Consultation in respect of a planning application is received from an adjoining Local Authority, it is referred to the Planning Board where the proposal would have been reported to Board (under the Scheme of Delegation) had it been submitted in the Rotherham area. Any comments made by Members are forwarded to the relevant adjoining Authority for consideration.

Marr Wind Farm

Reference was made at the last Board to an application that had been granted and implemented for wind turbines at Marr in Doncaster. It has been established that the application related to the erection of 4 turbines, with a hub height of 80m and a blade tip height of 125m. This would compare with the 6 turbines proposed at Ulley which are also 80m to the hub, but 132m to the blade tip. The turbines in Doncaster are located to the south of the A635 between Hickleton and Marr, and would be approximately 5km from the Rotherham boundary at the nearest point (being Mexborough Road/Hound Hill Lane at Wath).

In view of the distance to the Rotherham boundary it is considered that any land or properties within the Borough would not be affected by the development, and that consultation with Rotherham was not, therefore, necessary in this instance.

Conclusion

Local Authorities will consult an adjoining Local Authority if it considers that a planning application is "likely to affect land" within that adjoining Authority. There is no advice or guidance as to how this is to be interpreted and it is, ultimately, down to the Local Authority to decide if an adjoining Authority should be notified.