

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE  
18 FEBRUARY 2016**

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

**INDEX PAGE**

<b>RB2015/1422</b> <b>Extension to existing day care nursery and temporary siting and use of portable classroom at Railway Children Day Care, Nursery Wood Lane, Treeton for Mr. R. Zaddiq.</b>	<b>Page 42</b>
<b>RB2015/1425</b> <b>Conversion of barn to dwelling (Use Class C3) at The Barn, Dalton Lane, Dalton for Mr. Thacker.</b>	<b>Page 51</b>

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 18 FEBRUARY 2016**

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

<b>Application Number</b>	<b>RB2015/1422</b>
<b>Proposal and Location</b>	<b>Extension to existing day care nursery and temporary siting and use of portable classroom at Railway Children Day Care Nursery, Wood Lane, Treeton, S60 5QU</b>
<b>Recommendation</b>	<b>Grant subject to conditions</b>

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



**Site Description & Location**

The site of application is the Railway Children Day Care Nursery, located on Wood Lane Treeton, at the point where Front Street turns into Wood Lane. The property was originally constructed as a Methodist Church and was subsequently converted to a Children’s Day Nursery within the last 5-10 years.

The property is a 1960s building with a mixture of flat and pitched roofs, constructed in artificial stone and timber panelling. The property is largely screened by Silver Birch

trees to the front that are protected by way of TPO No. 3, 2009. To the side (west) is a large open grassed area with landscaping and a small memorial to a mining disaster. This grassed area of the site originally contained a Victorian Chapel, which had to be demolished due to mining subsidence. There are also the rear of residential properties on Westfield Lane. To the east is a terrace of residential properties fronting Wood Lane, as well as a rear private access road that serves them. To the rear (south) of the site are residential properties on Rother Crescent.

The Nursery Building itself falls outside the Treeton Conservation Area, however the open grassed area falls within the Conservation Area.

## **Background**

RB2012/1693 - Application to prune 3 No. silver birch trees protected by RMBC Tree Preservation Order No.3 2009 - GRANTED CONDITIONALLY

RB2014/1177 - Erection of canopy to rear - GRANTED CONDITIONALLY

## **Proposal**

The applicant seeks permission for a single storey side extension and a temporary portable building to be positioned on site during the construction.

The new side extension will measure 4m wide, by 21.6m deep and 2.6m high. The overall height of the extension has been reduced to minimise the impact upon neighbouring amenity by replacing a sloping roof element with a flat roof

The proposed temporary cabin building is to be positioned in the side garden area and will be removed following the completion of the extension on site.

## **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP) (noted in Appendix B of the Core Strategy). The Rotherham Local Plan 'Publication Sites and Policies' was published in September 2015.

The application site is allocated for 'Residential' purposes in the UDP, and this allocation is carried through onto the Rotherham Local Plan 'Publication Sites and Policies' document Policies Map. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS23 'Valuing the Historic Environment'  
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):

ENV2.11 'Development in Conservation Areas'

## **Other Material Considerations**

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

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

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

## **Publicity**

The application has been advertised by way of neighbouring letters, a site notice and a press notice as the development (principally the siting of the mobile classroom) would potentially impact on the Treeton Conservation Area.

Three letters of objection have been received from the occupiers of 50 Wood Lane, 29-31 Front Street, and 'Richlee' on Front Street. In addition, a petition has been submitted and signed by the occupiers of the 3 properties referred to above, as well as the occupiers of 53 and 112 Wood Lane, and Church View on Westfield Lane. The objectors state that:

- There is no provision for parking currently, and there is no provision for parking for the new extension/building. This goes against a core planning strategy of the Council and is causing a real headache for residents and other road users.
- As the nursery expands, staff numbers will inevitably increase, as will the number of parents dropping off children. It should also be noted that these drop-offs are not always limited to a few minutes and additional cars may be parked for periods of up to an hour on the main road.
- The protected trees at the front of the site could be removed to provide for additional parking area – loss of trees would be outweighed by better parking and associated highway safety improvements.
- This space, which I understand to be in the Treeton Conservation Area, adds significantly to the character of the village and in my opinion it is important that this, along with the 'memorial plaque' in the wall, remains undeveloped and undisturbed.
- Any extension into the "front garden space" would also be detrimental to the appearance of this part of the village.

The applicant has requested the right to speak at Planning Board.

## **Consultations**

Streetpride (Transportation & Highways) Unit: Notes from the submitted details that no additional staff will be employed as a result of the proposed scheme and that Front Street is capable of accommodating some on street car parking. This being the case, no objections are raised to the granting of planning permission in a highway context.

Streetpride (Trees & Woodlands): At present there are concerns and reservations regarding the proposals due to the potential adverse impact of the proposed extension on local amenity and, in particular the future prospects of the protected Silver Birch trees on the site protected by TPO.No. 3, 2009. However, hopefully any concerns may be overcome if the proposed extension is relocated outside the recommended root protection area of the trees. However, if this is not possible, special design and construction methods will need to be used for the foundations of the extension to help minimise any impact on the trees and the valuable and important amenity they provide on the edge of the local Conservation Area.

## **Appraisal**

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

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

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

The site has as an established use as a Children's Day Nursery, as such the principle of the development is already established. Therefore the main issues to take into consideration in the determination of the application are –

- The impact upon the appearance of the host property
- The impact of the portable classroom on the Conservation Area
- The impact upon neighbouring amenity
- Impact on highways
- The impact upon the protected trees to the front

### The impact upon the appearance of the host property

In assessing the proposed design of the extension in relation to the existing property and the surrounding area, Policy CS28 – Sustainable Design states that: “Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.”

The NPPF notes at paragraph 56 that: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The National Planning Policy Guidance (March 2014), notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations.” The NPPG further goes on to advise that: “Local planning authorities are required to take design into consideration and should refuse permission for development of poor design.”

The proposed flat roofed extension reflects the 1960 style of the host property and represents a proportionate extension. The majority of the extension will not be readily visible in the streetscene and subject to the use of appropriate materials will not appear out of keeping. As such the proposed extension will be in keeping with the host property and accords with the both Core Strategy Policy CS28 and the guidance contained with the NPPF.

#### The impact of the portable classroom on the Conservation Area

With regards to design issues and the impact on the Conservation Area, ‘saved’ UDP Policy ENV2.11 ‘Development in Conservation Areas,’ states: “the Council will not permit development which would adversely affect the architectural or historic character or visual amenity of the Conservation Area. It also states the Council will have regard to the degree to which the proposals are compatible with the vernacular style, materials, scale, fenestration or other matters relevant to the preservation or enhancement of the Conservation Area’s character.”

The proposed portable classroom, is a utilitarian structure inappropriate as a permanent addition within the Conservation Area. However the applicant only requires the temporary classroom during the construction work, to maintain a working nursery. The position of the classroom also ensures that no damage will occur to any of the original stone walling or compromise the setting of a mining memorial.

With the above circumstances in mind the proposed portable classroom is considered acceptable as a temporary addition within the Conservation Area and would be in accordance with ‘saved’ UDP Policy ENV2.11 ‘Development in Conservation Areas,’ and the NPPF.

#### The impact upon neighbouring amenity

The NPPF states that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. Amongst these 12 principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and building.

The Council's Interim Planning Guidance 'Householder Development' specifically relates to proposed house extensions though its general guidance can be applied to proposed extensions on other buildings that impact on existing residential properties. It gives guidance upon overshadowing matters and notes: "Extensions should not overshadow neighbouring properties to an unreasonable degree. The Council will take account of the orientation and position of neighbours' windows in relation to the extension. Where an extension would be likely to significantly reduce the amount of sunlight and/or daylight casting a shadow over private amenity space or entering the window of a habitable room (such as a kitchen, living room or bedroom) planning permission may not be granted."

With regard to the impact upon neighbouring amenity, the proposed temporary classroom is set to the front of the site, divided from the nearest neighbour by a high wall. As such the classroom will not harm neighbouring amenity. Turning to the side extension, this is a permanent addition and has been reduced in height at Officer's request to minimise the harm upon the amenity of the nearest dwelling No.112 Front Street. At 2.6m high the proposed extension is similar in height to a small shed or outbuilding and as such the impact upon neighbouring amenity is acceptable.

With the above circumstance in mind the outbuilding is in accordance with the Council's Interim Planning Guidance along with the guidance within the NPPF.

#### Impact on highways

A number of objectors have raised concerns regarding the impact of the development upon the local highway network. The objectors are concerned that the surrounding roads currently struggle to accommodate the level of parking generated by the nursery and that an extension will result in further parking demands in the area.

The applicant indicates that no additional staff will be employed as a result of the proposed scheme. The Council's Transportation Unit note that Front Street is capable of accommodating some on street car parking and therefore has no objection to the granting of planning permission in a highway context.

Furthermore the Council has been approached by the applicant with a view to forming an onsite car park as part of a separate application. This is however only at an early stage and may not materialise.

#### The impact upon the protected trees to the front

The site contains 3 mature Silver Birch trees protected by TPO No. 3, 2009 together with a low amenity Ash and existing mature shrubs. Of these the most significant amenity trees with reasonable to good medium to long term future prospects are the protected Silver Birch as they provide valuable and important amenity. Indeed, it is for this reason they were protected and their retention is desirable whilst their condition allows.

According to the submitted details the proposed extension will be approximately 3m from the main stem of T1. This is clearly within the recommended root protection area. Also, in this instance, it is noted there is limited rooting potential of only 2.65m towards Front Street. Therefore, it could be argued the Root Protection Area should be extended equally in other directions to take this into account. At the least there should be no

excavations, including any changes to existing ground levels and surfaces within 4.2m of T1. At present, from the submitted details, it appears this will require the extension to be set back an additional 1.2m from T1, which the applicant is unwilling to implement due to the loss of internal floor area.

Therefore special design and construction methods will be required for the foundations of the extension to help minimise any root disturbance, cutting and possible damage e.g. pile and beam foundations within the Root Protection Area of T1. An appropriate worded condition has been attached requesting details of the foundations prior to the commencement of development, which will protect the future amenity of the trees.

## **Conclusion**

In conclusion, it is considered that the proposed side extension and temporary classroom are acceptable and will not cause harm to neighbouring amenity. It is further considered that the proposed development will not have a detrimental impact on the character of the host property or Treeton Conservation Area, or on highway safety in this location.

It is therefore recommend that the application for planning permission subject to the conditions as set out below, be granted conditionally.

## **Conditions**

01

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

Reason

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

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)  
(Amended Elevations TrtnExt004A, received 14 January 2016)  
(Floor Plan TrtnExt003, received 02 November 2015)  
(Temporary Classroom Elevations TrtnExt007, received 12 November 2015)  
(Amended Site Plan TrtnExt008, received 16 November 2015)

Reason

To define the permission and for the avoidance of doubt.

03

The proposed temporary portable classroom hereby approved shall be removed from site once the single storey side extension is brought into use and the site restored in a manner to be agreed with the Local Planning Authority.

Reason

The proposed temporary classroom building is not considered suitable as a permanent structure within the Conservation Area, in accordance with UDP Policy ENV2.11 'Development within Conservation Areas.'



04

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

Reason

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

05

Prior to the commencement of any development on the site, details of special design and construction methods for the foundations of the extension so as to minimise any disturbance to the roots of the protected Silver Birch trees at the front of the site shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented during construction.

Reason

In the interest of the future prospects of the protected TPO trees and in accordance with UDP Policy ENV3.3 Tree Preservation Orders.

06

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

Reason

In the interest of the future prospects of the protected TPO trees and in accordance with UDP Policy ENV3.3 Tree Preservation Orders.

### Informative

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start. Conditions numbered 5 & 6 of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.
- ii. The details required under condition numbers 5 & 6 are fundamental to the acceptability of the development and the nature of the further information required to

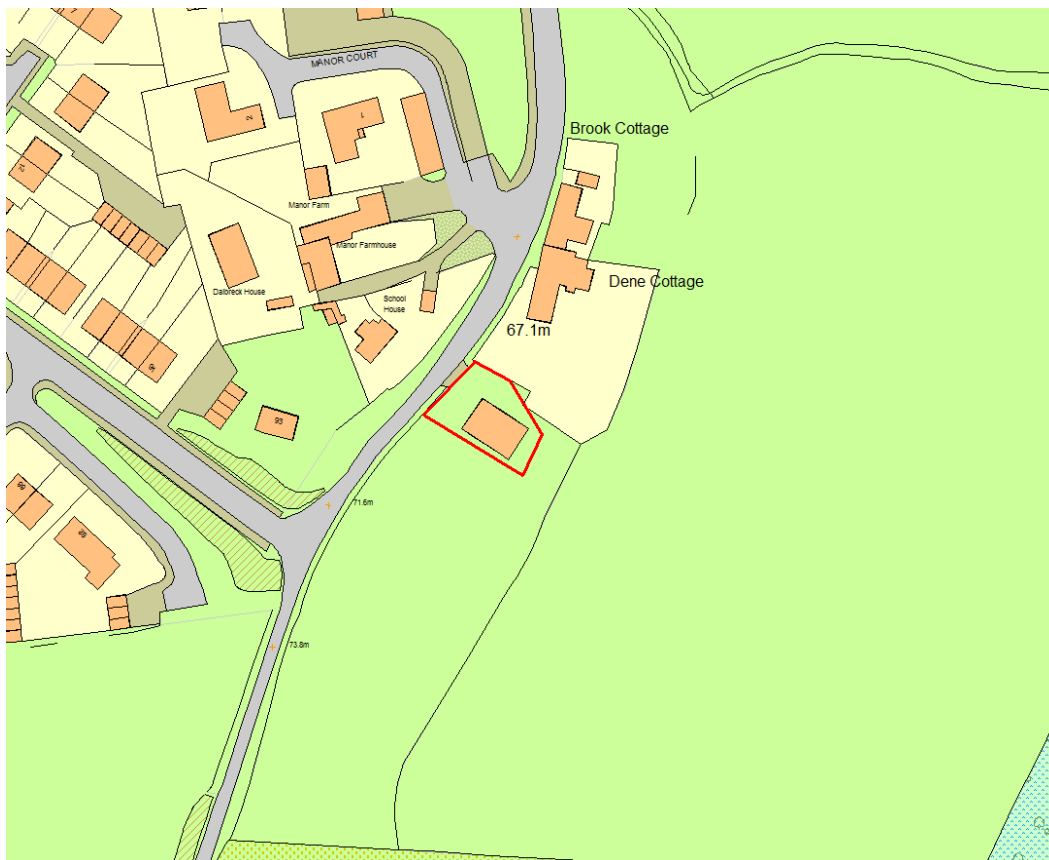
satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.

#### POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2015/1425</b>
<b>Proposal and Location</b>	Conversion of barn to dwelling (Use Class C3), The Barn, Dalton Lane, Dalton, S65 3QQ
<b>Recommendation</b>	<p>A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <ul style="list-style-type: none"> <li>• That the building remains in the applicant's ownership for a minimum period of 5 years following the grant of planning permission otherwise a £10,000 affordable housing contribution becomes payable.</li> </ul> <p>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the conditions set out in the report.</p>

This application is being presented to Planning Board as more than 5 objections have been received.



## Site Description & Location

The site lies at the southern end of the main Dalton village on the eastern side of Dalton Lane. The site comprises of a rectangular shaped field, approximately 0.6 hectares in size, with a farm building to the north of the site which was granted at appeal after being refused planning permission under RB2007/0658 (APP/P4415/A/08/2068237/NWF).

Access into the site is via a driveway that slopes down on a west to east orientation from Dalton Lane. There is a gate across the entrance to the site and beyond this is a hawthorn hedge adjacent the highway.

The site lies within the Green Belt, with areas to the west lying within a residential allocation. The site also lies within the southern end of the Dalton Conservation Area. To the north east and south of the site there is open countryside with an area of woodland to the south-east.

## Background

Relevant planning history of the site dates back to 1997 and the full planning history is detailed chronologically in the following table:

**Table Summary**

<b>Planning Application ref</b>	<b>Proposal</b>	<b>RMBC Decision</b>	<b>Appeal</b>	<b>Enforcement taken?</b>	<b>Post application notes</b>
<b>RB1997/1107</b>	Part retrospective application for the infilling of land, landscaping, re-siting of access and erection of a stable.	Refused December 1997.	No	Enforcement Notice served January 1998. EN1998/0118.	Works removed and land re-instated to original contours.
<b>RB2007/0658</b>	Erection of an agricultural building for storage and for the housing of livestock.	Refused at Planning Board August 2007.	Allowed on appeal 25 <sup>th</sup> June 2008.	During subsequent monitoring, a number of discrepancies in the design noted. Led to submission of RB2008/1698.	Application built. Where relevant, conditions discharged.
<b>RB2007/1658</b>	Erection of an agricultural building for storage and for the housing of livestock (amendment to RB2007/0658 for a smaller footprint)	Refused at Planning Board May 2008.	No	No.	Application not built
<b>RB2008/1698</b>	Retrospective application for erection of an agricultural building for storage and for	Refused at Planning Board March 2009.	Allowed on appeal 23 <sup>th</sup> February 2010.	Ongoing enforcement monitoring taken place 2010- No conclusive	Construction on site regularised. Stage 1 complaint

	the housing of livestock (amendment to previously approved on appeal under RB2007/0658)			evidence to indicate the building used as a dwelling.  PCN served September 2015.	Stage 2 complaint January 2009.  Stage 3 complaint March 2009.
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## Chronological summary

### 1997

A part retrospective planning application RB1997/1107 was refused in December 1997. This was for the infilling of land, landscaping, re-siting of access and erection of a stable.

### 1998

In January 1998 an Enforcement Notice was served on the property. No appeal was submitted against this and the notice came into effect shortly after. In August 1998 the Enforcement Officer noted on the planning file that the unauthorised works had been removed and the land levels had been reinstated/re-graded in accordance with the original pre-1997 land levels.

### 2007

In May 2007 a planning application for a barn was submitted under RB2007/0658. This was recommended for approval by officers but refused at the Planning Board. The application was subsequently approved at appeal under the written representation procedure. The Planning Inspector was satisfied that the building was for agricultural purposes and would not represent inappropriate development in the Green Belt. The Inspector then indicated that there was no need for the appellant to demonstrate that any very special circumstances would need to exist to justify inappropriate development and there was no conflict with the local and national policies used at the time (UDP Policy ENV1 and PPG2 Green Belt).

The development was subsequently constructed. However, during the latter stages of construction, it became apparent that there were a number of discrepancies when compared to the approved plans.

Prior to the appeal decision though and under reference RB2007/1658 a further application for a smaller building was submitted. This was also refused at the Planning Board but no appeal was ever submitted.

### 2008

Following a site visit in October 2008 it was evident that the works were not built in accordance with the approved plans. These differences included alterations to window openings/external appearance, a re-siting of the building approximately 1m further forward in the site, and slight differences in the approved widths and lengths. It was also noted that a chimney had been added to the building.

The alterations were materially different to the earlier approval, but was of a broadly similar scale and size. It was considered that the changes would not introduce new planning issues that hadn't previously been considered and the use was again for

agricultural purposes. The LPA subsequently invited the applicant to regularise these alterations under a fresh application, rather than serve of an Enforcement Notice. The new application was submitted in late 2008 under RB2008/1698. This application was subsequently refused by the Planning Board in March 2009. Following the refusal, an appeal was submitted.

#### 2009 –

Prior the decision on RB2008/1698, in January 2009 a complaint was submitted about the way the application had been handled and determined. The outcome of the complaint did not find any maladministration or found any evidence that the application was dealt with in an inappropriate way.

In March 2009 the complaint was taken further and was heard by the complaints panel at a meeting which was attended by Planning and Highway Officers, Council Members, and local residents. The panel investigated the main points of the complaint, which were that officers did not take due diligence in assessing earlier applications and questioned the compliance with enforcement action dating back to 1997. The panel concluded that the enforcement notice had been complied with and did not consider this to be a relevant matter having been superseded by additional planning applications and subsequent appeals. The panel sympathised with the complainants but were of the opinion that officers were not at fault. It said that any further breaches of planning should be investigated.

#### 2010

In February 2010 the appeal against RB2008/1698 was subject to an Informal Hearing and attended by RMBC Planning and Highway Officers, the applicant and appellant and objectors (local residents). The Inspectorate allowed the appeal subject to conditions. The appellant also applied for costs, but no costs against the Council were awarded.

#### 2010 – 2015.

Following the appeal, there have been no further applications on this site until this current application which was submitted in November 2015 for the conversion of part of the barn to a dwelling (Use Class C3).

Since the building has been erected information was received that it may be being used as a dwelling house. The site has been subject to monitoring by the enforcement team and officers have visited the site on numerous occasions and have noted that the interior of the building did not have the appearance of a dwelling.

In September 2015 a Planning Contravention Notice (PCN) was served. A PCN may only be served when it appears to the local planning authority that a breach of planning control may have occurred and they want to find out more information before deciding what if any enforcement action to take.

The agents reply to the PCN indicated that this was not the applicant's (or anyone else's) permanent residence, which was demonstrated by the receipt of a Council tax letter at another address. The building was predominantly used for the storage of tools, materials and animal feeds. Occasional sleeping/living accommodation was required to attend to livestock, particularly around events such as lambing season or when animal welfare issues were more critical.

Following the reply to the PCN, this application to use the building for residential purposes was submitted.

Members will also be aware that following the adoption of the Core Strategy in September 2014, Policy CS7 'Housing Mix and Affordability' requires proposals for new housing to contribute towards affordable housing provision (£10,000 per new additional dwelling (including conversions) or 25% provision on site. New self-build homes will be exempt from the requirement to provide affordable housing. This exemption will apply to homes built or commissioned by individuals, families or groups of individuals for their own use and that will be owner-occupied.

## **Proposal**

This application seeks to change the use of the building from an agricultural use to a mixed use of residential in the upper floor (Use Class C3) and agricultural in the lower basement area.

No additional landscaping, car parking, or future outbuildings are proposed. It is also proposed to insert an additional window on the northern elevation of the site (giving a total of 3no. windows on this elevation). This is the only proposed change to the external appearance of the building. Internally it is proposed to subdivide the existing store room into a store room and second bedroom. The existing rest room will also be used as a bedroom.

Some external changes to the property have previously been carried out and the differences to the previous plan RB2008/1698 can be summarised as follows:

- Additional window on the northern elevation (already installed 2008).
- Construction of an outdoor dog pen on the southern elevation that is attached to the building (already constructed).
- The construction of guttering and downpipes to transport rainwater goods (constructed late 2008).
- The chimney was constructed in September 2008, though it was not marked on the previous plans.

## **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated as Green Belt in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):  
CS4 Green Belt  
CS7 'Housing Mix and Affordability'  
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):  
ENV1.2 'Development in Areas of High Landscape value'

ENV2.11 'Development in Conservation Areas'  
ENV3.7 'Control of Pollution'

### **Other Material Considerations**

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

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

It should be noted that Permitted Development regulations changed in April 2015 under the General Permitted Development Order with class Q giving permitted development so that existing agricultural buildings can be converted into residential dwellings under a Prior Notification procedure. There are some restrictions though and this procedure is only available for buildings that are **not** in Conservation Areas and up to a maximum floorspace of 450sq m. Whilst this building is less than 450sqm it is located within Dalton Conservation Area and its conversion to residential use is therefore not permitted development.

### **Publicity**

The application has been advertised by way of a site notice along with individual neighbour notification letters to adjacent properties. A total of 7 letters of representation have been received and can be summarised as follows:

- This was always the applicant's intention to use the property for residential purposes and is unacceptable.
- The creation of a dwelling by this two stage approach could circumvent planning controls and potentially create a precedent leading to other barns/houses being built either on the same site or on adjoining sites.
- No further building should be allowed on this site.
- Some 'domestication' of the building (e.g. cavity wall insulation) was seen in 2010.
- Mr Thacker has been living in the building for over 4 years.
- Concerns raised about the material that is buried under the site.
- The sight line along the entranceway has been obstructed by the hedge which has not been properly maintained.
- A dual use building will incur extra traffic and hence a greater risk to all road users.
- The applicant has used deception in the scheme and stands to profit from a course of deliberate deception to secure a development in the Green Belt which would not otherwise be acceptable.



## Consultations

Streetpride (Transportation and Highways) – no objections  
Yorkshire Water – no comments

## Appraisal

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

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

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

The main issues to take into consideration in the determination of the application are –

- The principle of the development
- Impact on openness and appearance of the Green Belt
- Transportation Issues
- Drainage and Flood Issues
- Landscape and Ecology
- General Amenity Issues
- Other Issues

### The principle of the development

This application proposes to convert part of the existing barn into a dwelling. No additional external alterations are proposed.

Paragraph 90 of the NPPF states that “Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt’. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

In this instance the proposal is for the alteration of an existing building and in policy terms the principle of the conversion of an agricultural building is considered acceptable within the NPPF.

It should also be noted that permitted development regulations changed in April 2015 under the General Permitted Development Order, with class Q indicating that barns can be converted into residential dwellings under the Prior Notification procedure. This procedure is only available for buildings that are not in Conservation Areas and up to a maximum floorspace of 450sq m. In this case the property is within a Conservation Area and therefore does not benefit from this procedure. However, this new permitted development allowance is clearly a material factor in the determination of the application. The reason why conservation areas are excluded from this provision is to ensure that any conversion does not affect the setting or character of the Conservation Area rather than the having an issue with the principle of the use. As the building does

not require any external alterations to facilitate its use as a dwelling it is considered that there would be no effect on the character or appearance of the Conservation Area.

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

There are no proposed alterations to the external appearance of the existing property with no changes to the footprint of the building, height or area of hard standing. The visual appearance of the building will remain very similar to the existing building, the only change being the creation of an additional window on the northern elevation. In design terms the proposal is considered to have a good standard of design having high quality stonework and is an acceptable within the surrounding area and Dalton Conservation Area. The proposal is therefore not considered to have any additional impact on the openness and appearance of the Green Belt than the existing structure.

As such, the change of use is considered to have no significant visual impact on the surroundings and conforms with UDP policy ENV2.11 'Development in Conservation Areas' and the guidance within Core Strategy CS28 'Sustainable Design'.

#### Transportation Issues

Overall the Transportation Unit have raised no objections to the conversion of the building into a single residential property and the associated traffic levels are considered to be similar to those generated by the existing building.

In terms of the outstanding site line condition, this has recently been provided to the specified standard as previously imposed by condition on the granting of planning permission at appeal.

The condition states that there should be no obstruction to visibility of anything greater than 900mm in height above the level of the nearside channel of the adjacent carriageway. It also states that the approved visibility sight line shall be provided and retained thereafter.

As this has recently been complied with there are no concerns from a highway perspective to this application.

#### Drainage and Flood Issues

The site does not lie within a known Flood Risk Zone as identified by the Environment Agency. The site also does not lie within any recognised surface water flood risk area. In any case the site slopes steeply downwards along a west-east orientation and no further building or hardsurfacing works are proposed in this change of use application. It is considered that the existing drainage arrangements on the site are acceptable.

#### Landscape and Ecology

The levels of proposed additional external works required for the conversion of the building into a part residential use are minimal. Some landscaping and planting of small shrubs has already been carried out around the building, similar to that which might be expected on a residential conversion and it is not anticipated that the conversion would generate any additional ecological impact on the surroundings.

#### General Amenity Issues

Moving to the likely impact on the surrounding neighbouring properties, the site is within the Green Belt but is also on the edge of a long-established residential area. In terms of future noise and odour emanating from the property, it is considered that a fully

residential use would emit less odour and noise than a fully agricultural use. It is therefore considered that to allow part of the building to be used for residential purposes would not have any additional impact on the amenity of the occupiers of nearby properties.

There is an additional window proposed on the northern elevation of the site (facing Dene Cottage) which would represent the third window on this elevation. Of the existing windows, one is already clear glass serving the kitchen and store and one obscure glazed serving a WC and shower. The existing windows have been in position since approximately October 2008. The insertion of a further window is not considered to generate any significant additional overlooking to the neighbouring property at Dene Cottage taking into account the presence of mature boundary treatment on this elevation and the spacing distance would be in excess of 21m to the side elevation of Dene Cottage. Whilst this opening would be visible from the street scene, it is also not considered to have any significant impact on the visual amenity of the surroundings that could justify a refusal on design or overlooking.

In terms of vehicular activity, the creation of a single residential dwelling is considered to generate low levels of traffic and will not have any effect on the local transport network. The proposal is therefore considered to be in accordance with policies ENV3.7 'Control of Pollution' and the general advice within the NPPF.

#### Other Issues

A number of objectors have raised the issue that the applicant purposefully intended to use the building as a residential property at the time the original barn was constructed in 2007. The objectors assert that the building was never intended to be used for agricultural purposes and achieving a residential building in the Green Belt was the applicant's original aim.

In response to this, the Council notes that during the original application submission, the applicant submitted copies of supporting documents showing animal ownership details, along with authorisations showing movement of animals and Defra guidance. The Council cannot dispute these documents and the planning system is not able to take into account the motives or behaviour of an applicant and this aspect cannot be afforded any material planning weight.

In addition the Council's enforcement team have visited the site on numerous occasions inspecting the site externally and internally. No evidence of a residential use was present on the site. Whilst some overnight stays have occurred and these seem to have increased in recent times, A PCN was served and the reply to this has indicated that the building has not been used for residential purposes in breach of planning regulations and the Council has not had any evidence to the contrary that would support more formal Enforcement Proceedings.

Likewise, objections raising the issue of future financial gain for the applicant are not a material planning issue and cannot be given any weight in the determination process.

A number of the objections also raise the possibility that further residential development may be sought on the same or an adjacent site in the future and that this would set a precedent. In response to this, each application has to be treated on its own merits and is determined in accordance with the development plan at the time unless material

considerations indicate otherwise. This would not therefore set a precedent for any future development.

As the site is within the Green Belt, it is recommended that future permitted development rights are removed in order to ensure that the openness of the Green Belt is not unduly affected.

## **Conclusion**

This application for a change of use of part of the building does not propose any changes to the external appearance of the building, other than an additional window, and will not have any significant additional visual effect on the surrounding area. The application is not considered to increase the amount of vehicular traffic entering the site, increase noise, odour or surface water runoff. Permitted development rights are recommended to be removed and the application is therefore recommended for approval subject to the recommended list of conditions and the signing of a section 106 agreement to ensure that the building is not sold or let within 5 years otherwise a £10,000 affordable housing contribution becomes payable.

## **Conditions**

01

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)

Drawing numbers site and location plan, Amended floor plans and elevations – agent SEA Planning, received 05/11/15 and 08/02/16.

Reason

To define the permission and for the avoidance of doubt.

02

The sight lines currently in place on the site shall be maintained in future by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

Reason

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

03

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions or alterations otherwise Permitted under Part One Classes A, B, C, D and E shall be carried out to the approved development.

Reason

In order to control any further development at the site which is located within the Green Belt land and to ensure that there is no harm to the occupiers of adjoining properties.

## **Informatives**

01

The planning permission is subject to a Legal Agreement (Obligation) under Section 106 of the Town and Country Planning Act 1990. The S106 Agreement is legally binding and is registered as a Local Land Charge.

### **POSITIVE AND PROACTIVE STATEMENT**

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