

**REPORT TO THE PLANNING REGULATORY BOARD  
TO BE HELD ON THE 23 JUNE 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>RB2016/0043</b>
<b>Proposal and Location</b>	Erection of 1No. pair of semi-detached houses at former garage site Yew Tree Road Maltby, S66 8EB
<b>Recommendation</b>	Grant subject to conditions

This application is being presented to Planning Board as it does not fall within the Scheme of Delegation due to the number of objections.



**Site Description & Location**

The application site consists of a parcel of land at the end of Yew Tree Road at Maltby which is a small cul de sac consisting of 11 dwellings, including semi-detached two storey brick built properties of a traditional design on the northern side and a mixture of individually designed detached bungalows and two storey dwellings on the southern side.

The site is a rectangular area approximately 370 square metres in size and is relatively flat, rising slightly to the rear of the site. The land is currently grassed for the most part with the existing turning head extending into the front section of the site. The boundaries are screened by palisade fencing to the west with a mixture of close boarded and open fencing to the northern and eastern boundaries.

The site was formerly a garage site in the ownership of the Local Authority and has recently been sold at auction.

## **Background**

There have been numerous applications in the 1950's relating to the erection of garages on the site, none of which are considered to be relevant to this application.

## **Proposal**

This application has been submitted by Woodsett Homes Ltd and seeks full planning permission for the erection of a pair of semi-detached dwellinghouses on the site fronting Yew Tree Road.

The original plans have been amended at officer's request in order to maintain a sufficient portion of the existing turning head to enable emergency and other vehicles to turn. This has necessitated the dwellings being located slightly further towards the eastern boundary of the site to provide off road parking down the side of Plot 1.

Additionally it has been brought to the applicant's attention that the owners of No. 51 Larch Road (the property immediately to the rear of the site) have a legal right of way over the site and the amended plans have included an access strip to the western side of the site.

The plans now being considered consist of a pair of two storey semi-detached 3 bedroom dwellings of brick construction with a pitched roof over. The proposed dwellings would be sited approximately 1m from the boundary with No. 12 Yew Tree Road and 4m from the western boundary. In relation to the property to the rear (51 Larch Road) the proposed dwellings would be approximately 10.5m from the rear boundary and 22m from the rear elevation of that dwelling.

Each dwelling would have a footprint of 9.7m x 5.3m with a ridge height of approximately 8m. All habitable room windows are to be located on the front and rear elevations with smaller bathroom and landing/hallway windows only to the side elevations. The properties are proposed to be constructed in brickwork with a tiled roof over, details of which would be approved by condition.

Plot 1 is indicated to have two parking spaces to the western side of the dwelling with the majority of the existing turning head retained to the front of the dwelling and Plot 2 has two spaces in front of the dwelling.

The private rear garden area of Plot 1 is indicated to be approximately 68 square metres and Plot 2 65 square metres. The boundaries are indicated to be screened by 1.8m high timber fencing.

The applicant has submitted a contaminated land screening assessment report which states that there has been no chemical or waste storage on the land and concludes that there is no likelihood of any contamination being present on the land.

### **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. In addition, the Rotherham Local Plan 'Publication Sites and Policies' document allocates the site for 'residential' purposes on the Policies Map. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS1 'Delivering Rotherham's Spatial Strategy'

CS7 'Housing Mix and Affordability'

CS 14 'Accessible Places and Managing the Demand for Travel'

CS28 'Sustainable Development'

CS33 'Presumption in favour Sustainable Development'

Unitary Development Plan 'saved' policy(s):

HG4.3 'Windfall Sites'

HG5 'The Residential Environment'

T8 'Access'

The Rotherham Local Plan 'Publication Sites and Policies - September 2015':  
None.

### **Other Material Considerations**

Adopted Supplementary Planning Guidance (SPG) Housing Guidance 3:  
Residential Infill Plots.

The Council's Minimum Parking Standards (adopted June 2011).

The South Yorkshire Residential Design Guide.

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 a site notice in addition to individual neighbour notification letters to adjacent occupiers. A further letter was sent out after receipt of amended plans. A number of letters of objection in respect of the original proposals were received from 7 individual addresses. The concerns raised can be summarised as follows:

- Loss of the turning head would make it difficult for cars to turn particularly as there no off road parking for numbers 6,8,10 and 12.
- This is a narrow road with existing access problems.
- Access for emergency vehicles would be impossible.
- Potential damage to boundary wall by vehicles attempting to turn around.
- How can this section of the turning head be ‘unadopted’ as it has been here since the 1960’s and was clearly constructed at the same time as the rest of the road and prior to the houses being built.
- Putting more houses, cars and visitors on this road will make the existing parking problem worse.
- Lack of consultation on the application.
- Wish to maintain existing legal right of access over this land to the rear of 51 Larch Road.
- Loss of privacy and daylight to property to rear (51 Larch Road).

Following receipt of the revised plans and the further publicity carried out a further letter was received from the occupiers of the property at the rear (51 Larch Road) raising the additional following comments:

- Difficult access for emergency vehicles
- Privacy and amount of daylight received (to 51 Larch Road) would be compromised by the development
- Impact on existing wildlife in the area.
- The proposed access alley way would be convenient for criminals due to the proximity of adjacent farmland.

One Right to Speak request has been received from a local objector and one from the applicant.

### **Consultations**

Streetpride (Transportation and Highways Unit): Originally raised concerns that the proposed layout involves use of part of the existing turning head for car parking purposes in relation to Plot 1. Whilst this part of the turning has not been formally adopted it has existed for many years and is considered to form part of the highway. Retention of the turning area is necessary to avoid lengthy, potentially conflicting vehicular movements.

Following receipt of the amended plans highways officers have confirmed that the amended details are acceptable from a highway aspect subject to the imposition of conditions relating to the surfacing materials and maintenance of the turning area/kerb.

Streetpride (Drainage): Have recommended a standard drainage condition as no drainage information has been submitted.

Neighbourhoods (Land Contamination Officer): Notes that the site has been formally occupied by a number of residential garages for at least 54 years. The garages may have been used for vehicle maintenance, storage of fuels/equipment and a number of other unknown uses. Contamination may therefore be present within the surface soils and may exist in the form of heavy metals, asbestos and organic compounds. In addition, land to the west of the application site has been identified as a former landfill site which was licensed to accept domestic waste.

Based on the above it is recommended that an appropriate site investigation is undertaken to determine the presence and nature of potential contamination and the ground gassing regime at the site to determine if the land is suitable for its proposed residential end use, and the imposition of conditions requiring this is recommended.

## 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
- Layout, design and visual amenity
- Impact of the development on the amenity of existing and future occupants
- Highways issues
- Land contamination
- Drainage
- Affordable Housing
- Other issues raised by objectors.

### The principle of the development

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

Core Strategy Policy CS1 'Delivering Rotherham's Spatial Strategy' notes that Maltby is a Principal Settlement and that within such settlements development will be appropriate to the size of the settlement, meet the identified need of the settlement and its immediate area, and help to create a balanced sustainable community.

Paragraph 14 of the NPPF notes that "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development." Paragraph 49 of the NPPF adds that "...housing applications should be considered in the context of the presumption in favour of sustainable development." This is also supported by Core Strategy Policy CS33.

Paragraph 47 of the NPPF requires that Local Planning Authorities (amongst other things) identify and update annually a supply of specific deliverable sites sufficient to provide a five year supply of housing.

The site is allocated for Residential use in the Unitary Development Plan and is considered to be a windfall site where development will contribute to the required housing figures for the Borough.

It is further considered that insofar as the application site is surrounded by residential properties within a built-up residential locality, close to existing facilities and transport, that the development would accord with the presumption in favour of sustainable development

The principle of the proposed development is therefore considered to be acceptable.

#### Layout, design and visual amenity

With regard to layout considerations UDP Policy HG5 'The Residential Environment' encourages the use of best practice in housing layout and design in order to provide high quality developments. This approach is also echoed in paragraph 55 of the NPPF.

This is further underpinned by Core Strategy, Policy CS28 'Sustainable Design' which 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 also 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 properties are of a modern simple design with a pitched roof form in keeping with adjacent dwellings. The proposed design, size and siting of the new dwellings is considered to be appropriate for this location and are not considered to be detrimental to the visual amenity of the surrounding area.

Taking account of the above, it is therefore considered that the proposal would accord with the provisions of Policy CS28 Sustainable Design of the Core Strategy, as well as the advice contained within the NPPF and the National Planning Policy Guidance (NPPG).

#### Impact of the development on the amenity of existing and future occupants

In terms of residential 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 Supplementary Planning Housing Guidance 3 'Residential Infill Plots' recommends that any elevation situated less than 10 metres from a boundary with another residential curtilage should contain no habitable room windows at first floor level and the distance between habitable room windows should be 21 metres.

The proposal meets all the spacing standards with regard to the existing dwellings surrounding the site. However objections have been received from the occupiers of the property immediately to the rear of the site with regard to loss of privacy and loss of daylight. Whilst it is acknowledged that the property to the rear currently has an open aspect to the rear of their dwelling, it is considered that the proposed scheme would not give rise to any overshadowing issues, given the siting of the dwellings and the distance to neighbouring properties which is in compliance with the Council's recommended spacing distances.

The South Yorkshire Residential Design Guidance (SYRDG) further advocates the use of these separation distances for the purposes of privacy and avoiding overbearing, it also sets out minimum internal room sizes.

The proposed layout shows that these internal and external spacing distances are achieved apart from the main bedroom which is slightly smaller than the recommended size, (by approximately 0.5 sqm) however it does include an en-suite bathroom and overall the size of the property is in compliance with the guidance.

Taking the above into account it is therefore considered that the proposed development would not result in a significant impact on the future occupiers of the proposed dwelling or the occupiers of any existing properties and would therefore be in accordance with the aims of the SPG and the NPPF where one of the core principles seeks a good standard of amenity for all existing and future occupants of land and buildings.

#### Highways issues

With regard to highway issues, the Council's Car Parking Standards (adopted June 2011) state that a property with 3 or more bedrooms should have a minimum of two off road parking space.



Core Strategy Policy CS14 promotes new development in accessible locations.

The existing road has a turning head at the end of the street which extends into the applicant's land. Although this part of the turning head has not been formally adopted it has historically been used for many years and as such is considered to be part of the highway. The retention of an adequate turning head in this location is considered to be essential and discussions with the applicant have resulted in the original plans being amended to retain an adequate turning space whilst still providing 2 off road parking spaces for each dwelling.

Objections have been raised by local resident with regard to existing parking, access and turning problems. It is acknowledged that the existing highway is relatively narrow but the Transportation Unit does not consider that the proposed development raises any concerns regarding additional vehicular movements that would cause an unacceptable impact on highway safety.

#### Land contamination

The site has been formally occupied by a number of residential garages for at least 54 years. The garages may have been used for vehicle maintenance, storage of fuels/equipment and a number of other unknown uses. Contamination may therefore be present within the surface soils and may exist in the form of heavy metals, asbestos and organic compounds.

Land to the west of the application site has been identified as a former landfill site which was licensed to accept domestic waste. It is known that landfill gas is still being generated at the landfill site and active gas control measures are in place to control gas migration.

The developer will therefore be required to undertake gas monitoring at the application site to ensure the development area is not affected by landfill gas.

Additionally, within the contaminated land screening assessment report provided it has been confirmed that soils will need to be imported to site for gardens and soft landscaping areas. These soils will need testing prior to importation to site to ensure they are free from contamination.

Based on the above it is recommended that an appropriate site investigation is undertaken to determine the presence and nature of potential contamination and the ground gassing regime at the site to determine if the land is suitable for its proposed residential end use, and the imposition of conditions requiring this is recommended.

#### Drainage:

No drainage details have been submitted as part of the application and the Drainage Engineer has requested that a condition be imposed requiring submission of these details.

### Affordable Housing

Following the recent Court of Appeal judgement (Secretary of State for Communities and Local Government v West Berkshire District Council (1) and Reading Borough Council (2) [2016] EWCA Civ 44) on 11th May 2016, the lower threshold requirements for development schemes (i.e 10 or less dwellings) to provide a S.106 financial contribution towards off-site affordable provision were quashed. Until such time that any further judgements are made on this matter, the Council is no longer seeking a financial contribution or on site provision under its adopted Core Strategy Policy CS7 'Housing Mix and Affordability.'

### Other issues raised by objectors

Other issues raised by objectors include the impact on an existing legal right of way that the occupiers of 51 Larch Road have over the land. This information was included in the sales details of the land and the applicants have included an access strip to the west of the site to accommodate this. The adjacent occupiers have indicated that they are not satisfied with this, however this is not a material consideration in terms of the granting of planning permission and is a civil issue that will need to be addressed by the applicant prior to work commencing.

Concerns with regard to the impact on any wildlife on the site have also been raised. There is no evidence available to suggest that any protected species use the site and the inclusion of an informative advising the applicant of the requirement to comply with Wildlife Legislation is recommended.

One letter that has been received referring to the lack of notification to nearby residents in respect of this application. Individual letters were sent out to all properties that had a common boundary with the site and a site notice was displayed on Yew Tree Road, in compliance with the requirements set out in the Development Management Procedure Order 2015.

### **Conclusion**

It is considered that the proposed dwellings represent an acceptable form of development within a residential area which, by virtue of their layout and scale, would not be detrimental to the character of the area.

It is further considered that the new dwellings would not have any detrimental impact on the level of residential amenity enjoyed, by either the occupiers of any adjacent occupiers or future occupiers of the proposed dwelling, in terms of overdominating building form or loss of privacy due to overlooking.

Furthermore it is considered that adequate provision has been made for parking for the proposed dwellings and retention of adequate turning facilities at the end of the cul de sac, such that it is not considered that the development will result in any impact on highway safety.

The application is therefore recommended to be granted subject to the suggested conditions set out below.

### **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)

(Drawing numbers 15-MALTBY-4 received 17 December 2015)

(Amended site plan received 19 April 2016)

Reason

To define the permission and for the avoidance of doubt.

03

Details of the provision of kerb/margin around the side leg of the turning head hereby approved shall be submitted to and approved by the Local Planning Authority, and the approved details shall be implemented before the development is brought into use.

Reason

No details having been submitted they are reserved for approval.

04

Prior to commencement of development a Phase II Intrusive Site Investigation (inclusive of ground gas monitoring) and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 - 4).

Reason

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

05

Prior to commencement of development and subject to the findings of Condition 04 above a Remediation Method Statement shall be provided and approved by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless any identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, and the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of any approved remediation scheme works.

Reason

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

06

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

Reason

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

07

If subsoils / topsoils are required to be imported to site for gardens/soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of the testing will need to be presented in the format of a validation report which will be submitted to this Council for review and comment.

Reason

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

08

Subject to Conditions 04 and 05 above, following the completion of any required remedial/ground preparation works a Validation Report will be forwarded to the Local Planning Authority for review and comment. The Validation Report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. The site shall not be brought into use until such time as all validation data has been approved by the Local Authority.

Reason

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

09

No above ground 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 Core Strategy Policy CS28 Sustainable Development.

10

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

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

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

The area shall thereafter be maintained in a working condition.

#### Reason

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

11

Prior to the completion 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.

12

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

#### 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'.

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 04 and 05 of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified because:

i. The details required under condition numbers 04 and 05 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.

#### **Informatives**

01

The applicant is requested to contact Robert Wright in Streetpride on 01709 822829 prior to the commencement of works regarding the provision/adoption to the turning head.

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

INF 20 Deeds/Covenants/Rights of Access

The granting of this permission does not override any restriction/requirement set out in any deeds or covenants relating to the site or any right of way that may exist over the site. These are separate matters that need to be resolved accordingly before development can take place.

## 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>RB2016/0234</b>
<b>Proposal and Location</b>	Application to vary condition 19 (extend hours for loading and unloading of delivery vehicles from 07.00 to 06.00 Mondays to Saturdays and 09.00 to 08.00 Sundays) imposed by RB2016/0026, Land north of Bawtry Road Bramley S66 2TW
<b>Recommendation</b>	Grant subject to conditions

This application is being presented to Planning Board as it does not fall within the Scheme of Delegation due to the number of objections.



## Site Description & Location

The application site relates to a parcel of land approximately 0.65 hectares in area which until recently contained the existing Lighting Building and Conservatory Centre premises to the north of Bawtry Road (these buildings



have now been demolished). The rear of the site adjoins Main Street, the eastern boundary adjoins a residential property and a builder's yard, and the western boundary adjoins a public house and other commercial businesses. There are residential properties across Main Street. The site is currently vacant as the buildings have been demolished.

The land level at the site drops from west to east across the Bawtry Road frontage, and there is a fall in a north/south direction. There are differing types of screening around the site in the forms of walls and vegetation.

### **Background**

The site has been the subject of numerous applications relating both to existing uses and construction of buildings on the site. The most recent and relevant are –

RB2014/0230 - Demolition of existing units and construction of new food store with car parking, landscaping & associated works – Granted conditionally.

RB2014/1145 - Application to vary condition 23 (opening times) imposed by RB2014/0230 (Demolition of existing units and construction of new food store with car parking, landscaping & associated works) – Granted conditionally.

RB2015/0876 - Demolition of existing units and construction of new food store with car parking, landscaping & associated works- granted 18/09/2015

RB2016/0026 - Variation of Conditions 09 (car parking) and 31 (windows) imposed by RB2015/0876 (Demolition of existing units and construction of new food store with car parking, landscaping & associated works – granted 04/03/2016

Condition 19 of that approval states -

*“All deliveries to, or collections from the store shall be carried out between the hours of 07.00 - 23.00 Monday to Saturday and 09.00 - 22.00 on Sundays.*

### *Reason*

*In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with UDP Policy ENV3.7 'Control of Pollution'.*

### Screening Opinion

As the site is below the 5 hectares threshold as contained within the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended), there is no requirement to screen the application.

## **Proposal**

This current application is made under Section 73 of the Town and Country Planning Act 1990 and proposes to seek a variation to condition 19 imposed upon application RB2016/0026 in order to allow deliveries or collections from the store between the hours of 06:00-23:00 Monday to Saturday and 08:00-22:00 on Sundays. This seeks permission to deliver or collect from the store 1 hour earlier than currently approved each day.

In support of the application the agent has submitted a Noise Impact Assessment, a photo of an Aldi delivery taking place, and a recent appeal decision relating to a different site. The applicants state that the amendment is required to enable fresh goods to be delivered, and transferred to the shop in time for store opening which is 8am Mondays to Saturdays and 10am Sundays. The applicants state that from experience at other Aldi stores a 1 hour delivery period is not sufficient to unload and enable staff to efficiently stock shelves, prior to opening. By bringing the permitted hours of delivery forward, staff will be able to display the produce, and stack the shelves prior to customers entering the store, which will enable the staff to help customers with any questions and queries whilst the store is open.

In Aldi's experience, larger deliveries should typically be dispatched between 1.5-2 hours before opening which allows for stock to be fully unloaded and shelves stocked. This also allows for any delays experienced en-route to the store. This window is absolutely critical, as if customers develop the perception that a store lacks stock, the reality and Aldi's further experience is that they will simply no longer shop there.

The applicant states that the principle of extending the agreed delivery times is acceptable. This position is supported by evidence submitted in the form of a Noise Impact Assessment, and the context of the site. On this point it is noted that the store's service area is located on the north-eastern elevation of the consented Aldi store, and faces towards the store's on site car park, with commercial uses on its noise sensitive parameters. This includes the presence of an existing builders yard and a number of commercial uses, including shops, a social club and a pub, which form part of Bramley Local Centre.

Unlike other supermarkets, Aldi stores do not have a conventional service yard, instead they use a level dock delivery process where vehicles reverse up to the loading bay. Goods are then wheeled in cages directly off the lorry into the warehouse area, without the use of a tailgate or any lifting equipment.

The Noise Impact Assessment confirms that the resulting noise created as a result of the extended delivery hours would be audible, but would be unlikely to have any effect on behaviour or attitude, equating to no observed adverse effect.

It should also be noted that Aldi adopt a number of mitigation measures to minimise the impact of delivery movements on residential amenity, as follows

- no reversing beepers;
- no use of refrigeration units in the service yard;
- Lorry engine not left running for long periods;
- All unloading taking place internally.

There is further mitigation in terms of limited number of events, and the duration of events (approximately 30 minutes) with not more than one delivery taking place during the extended delivery period. Aldi are happy to accept that a Service Management Plan is secured by condition to secure the mitigation measures detailed and hours of delivery.

They also state that delivery hours from 06:00 on Monday to Saturday had already been established at other Aldi stores, including a recent appeal, details of which have been submitted with this application. It was granted as it was noted that Aldi are committed to operating as quietly as efficiently as possible, going above and beyond what other food retailers do to ensure noise and disruption when deliveries are taking place is kept to a minimum.

In addition to the above measures, during the application process the applicant has submitted an amended site plan that shows the erection of a 2 metre high acoustic fence located on the northern side of the loading bay.

### **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 application site is allocated for Retail (Town Centre) purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):  
CS27 Community Health and Safety

UDP  
ENV3.7 'Control of Pollution

### **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/UDP 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 a press and site notice along with individual neighbour notification letters to adjacent properties. Seven letters of objection have been received.

Two neighbouring residents have objected on the following grounds –

- House is across the road from the site, and widows face the store, the road noise is already quite intrusive and adding to the noise of large lorries and forklift trucks on site will disturb sleep very early in the morning.
- This is a general suburban area and residents peace and quiet should be protected.
- This is yet another concession being demanded by Aldi and there is objection to further loosening of the conditions attached to the original permission
- The applicant has no regard for people who live near the premises.
- The existing operating times are reasonable, however it is now clear that Aldi never intended to accept such constraints.
- Many companies have to operate within reasonable time periods which are for the benefit of local residents.

Bramley Parish Council have objected on the grounds that the site is surrounded by residential properties and that the extension to delivery times is wholly unacceptable. It was originally imposed for the benefit of the local residents. Other neighbouring businesses are restricted by the Driver and Vehicle Standards Agency. The Parish Council consider that the original delivery times on the original permission are more than generous and no variation should be allowed.

Wickersley Parish Council echo the above comments made by Bramley Parish Council.

An objection has been received from Cllr Ellis, Cllr Hoddinott and Cllr Read (Wickersley Ward Councillors) on the grounds that the amendments sought are unacceptable and would have a negative impact on the village. They are disappointed that Aldi has submitted these amendments following a public consultation on the original plans, when conditions were put in place to address concerns raised by local residents. The Councillors have requested that the email be treated as an individual objection from each Councillor.

## **Consultations**

Streetpride (Transportation and Highways Unit) – No objection

Environmental Health – Originally objected to the application as they considered that the development would cause a loss of amenity on the grounds of noise from early morning deliveries on Mondays to Saturdays with deliveries from 06:00 being sought. However the applicants have now also proposed to erect a 2 metre high acoustic fence along the northern side of the loading bay. Taking this into account, and recent appeal decisions submitted regarding the same issue, they have no objection to the application subject to a condition requiring the erection of the acoustic fence.

## **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.

In regards to the principle of development, layout and design, landscaping, biodiversity/ecology matters, contaminated land and drainage issues, these matters have already been established by the granting of the original application RB2015/0876 and do not require re-visiting as part of the current application as there have been no changes to material circumstances in respect of these matters.

The main considerations, however, in respect of the current relate to:

- The impact of the extended delivery hours on the amenity of surrounding residents.
- Impact on highway safety.
- Any other matters raised by objectors.

Impact of increased hours on the amenity of surrounding residents.

Core Strategy Policy CS27 'Community Health and Safety,' notes that: "Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable development. When the opportunity arises remedial measures will be taken to address existing problems of land contamination, land stability or air quality."

The Core Strategy Policy further goes on to note that: "New development should be appropriate and suitable for its location. Proposals will be required to consider (amongst others) the following factors in locating and designing new development:

- a. Whether proposed or existing development contributes to, or is put at unacceptable risk from pollution, natural hazards or land instability."

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

Planning permission will not be granted for new development which:

- (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided by incorporating preventative or mitigating measures at the time the development takes place,"

Paragraph 123 of the NPPF indicates that planning Policies and Decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise in new developments;
- Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established..."

The NPPG notes that: "Local Planning Authorities decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur.
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved."

The key point is that the NPPF notes that decisions on planning applications should avoid “noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.”

The main issue to be considered is the effect of changing the permitted hours of delivery to the food store on the living conditions of neighbouring residential occupiers, with particular regard to noise. The closest residential property to the loading bay on Main Street is approximately 27m away.

The application states that each deliver takes, on average 25 minutes, the most significant noise source is the arrival and departure of the lorry itself, which is a very brief event, and the associated noise is similar in nature to existing road traffic. During the 25 minute unloading process the trailer is backed up to a rubber surround so that stock is unloaded directly into the store, minimising the noise impact, and refrigeration units can be switched off while this happens.

The technical noise impact assessment submitted with the application concludes that the impact on local amenity will be relatively insignificant. It predicts that noise from the unloading process will be within the World Health Organisation limit for sleep disturbance. The predicted noise for the lorry manoeuvring is slightly higher, although they are well below the existing background noise in the area generated by traffic on Main Street and Bawtry Road. It therefore concludes that the additional noise associated with the extended hour for Aldi deliveries is unlikely to be noticeable.

The appeal decision submitted in support of the application is dated 22<sup>nd</sup> April 2015, and addresses the same issue as this application, to extend hours to allow deliveries to 06:00 Monday to Saturday and 07:00 on Sundays. In this case the facades of the closest residential properties were 46m from the service yard with an acoustic fence on the property boundary. After assessing all the evidence including the existing and predicted noise levels the Inspector concluded that the proposal would not have a harmful effect on the living conditions of neighbouring residential occupiers by reason of noise disturbance.

Objections have been received to this current application regarding the potential for noise disturbance to residents close to the site early in the morning. As detailed above the noise impact assessment concludes that deliveries at the site from 06:00 will not significantly increase noise at the site, and would not have a significant adverse impact on the residential amenity of neighbouring residents. As additional mitigation, the applicant has offered to erect a 2 metre high acoustic fence along the side of the loading bay.

In the aforementioned appeal the Inspector attached further conditions to assist in mitigating any noise produced, and it is considered that these conditions should also be attached to this permission. These would include the switching off of the refrigeration units on all delivery/collection vehicles prior to arrival at the store between the hours of 2300 and 0700; that

reversing alarms and all other beepers/alarms of all delivery/collection vehicles shall be switched off whilst at the store between the hours of 2300 and 0700, and that the engines of all delivery/collection vehicles shall be switched off when not manoeuvring and no horns sounded or radios used (except in an emergency) between the hours of 2300 and 0700.

It is therefore considered, that with the noise mitigation measures laid out above, the proposal to increase the delivery hours by 1 hour earlier each day would not have a significant impact on the residential amenity of surrounding residents, as such, the proposals comply with Core Strategy Policy CS27 'Community Health and Safety,' 'saved' UDP Policy ENV3.7 'Control of Pollution,' the advice contained within the NPPF and the guidance outlined in the NPPG.

#### Impact on highway safety.

The proposed extension of delivery hours is not considered to alter the previously submitted transportation assessment, neither does the overall scheme propose to alter any of the previously indicated delivery / servicing or car parking and access arrangements at the site. As such it is not considered that the additional hour of trading per day would lead to unacceptable increased demands upon the surrounding highway infrastructure or upon internal site parking provision to an unacceptable degree.

#### Other matters raised by objectors

Other objections have been received stating that this is yet another concession being demanded by Aldi to further loosen the conditions attached to the original permission, and that they have no regard for people who live near the premises. Objectors have stated that existing operating times are reasonable, however it is now clear that Aldi never intended to accept such constraints, and that many other companies have to operate within reasonable time periods which are for the benefit of local residents.

In this regard the applicant is open to submit planning applications to amend previous approvals and it for the Local Planning Authority to assess each application submitted on its own merits.

### **Conclusion**

It is considered that the information submitted demonstrates that the increased hours to allow for deliveries from 06:00 to 23:00 Mondays to Saturdays and 08:00-22:00 on Sundays, would not have a significant detrimental impact on local residents by virtue of noise and disturbance, and the proposal is therefore in accordance with Core Strategy Policy CS27 and UDP policy ENV3.7.

The mitigation measures proposed are also considered to further protect the residential amenity of the local residents, and are attached as conditions onto the planning permission.



## **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:

0491-50 Rev A Location Plan dated 01/14

C15A34-W003 Rev D Proposed Site Plan dated 11.06.2015

0491-111 Proposed GA dated 04/15

0491-115 Roof Plan dated 04/15

Proposed Elevations C15A34-P004 dated 7/9/15

0491-113 Proposed Sections dated 04/15

Reason

To define the permission and for the avoidance of doubt.

02

Prior to the commencement of construction works of the building hereby approved details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works, discharge points and off-site works, shall be submitted to and approved by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason

To ensure that the development can be properly drained in accordance with Core Strategy Policy CS25 'Dealing with Flood Risk'

03

Development shall not begin on the construction works of the building hereby approved until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the construction details and shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques (e.g. soakaways etc.);
- The limitation of surface water run-off to equivalent greenfield rates (i.e. maximum of 5 litres/second/Ha);
- The limitation of surface water run-off to equivalent brownfield rates (i.e. minimum of 30% reduction in flows based on existing flows and a 1 in 1 year return period);
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

Reason

To ensure that the development can be properly drained in accordance with UDP Policies ENV3.2 'Minimising the Impact of Development', ENV3.7 'Control of Pollution' and the South Yorkshire Interim Local Guidance for Sustainable Drainage Systems for Major Applications.

04

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'.

05

Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason

To prevent pollution of any watercourse in accordance with UDP policy ENV3.7 'Control of Pollution'.

06

Prior to the commencement of construction works of the building hereby approved details of the proposed vehicle accesses, including closure of the existing vehicle access on the site frontage with Bawtry Road as shown in draft form on Drg No C15A34-P003 Rev A shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

Reason

In the interests of highway safety.

07

Prior to the commencement of construction works of the building hereby approved details of a prospectively adoptable footway (Minimum width 2.0m and including 2 No tactile pedestrian crossings) on the site frontage to Main Street, shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

Reason

In the interests of highway safety.

08

Prior to the development being brought into use, a Car Parking Management Strategy shall be submitted to and approved by the Local Planning Authority and the approved plan shall be implemented throughout the life of the store. The strategy shall include details of the availability of 1.5 hours free car parking for customers and non-customers of the store.

Reason

In order to promote sustainable transport choices and encourage linked trips to other facilities in Bramley Town Centre.

09

Prior to the development being brought into use, an HGV routing strategy for delivery vehicles shall be submitted to and approved by the Local Planning Authority. The approved plan shall be based on delivery vehicles utilising the Bawtry Road access only and shall be implemented throughout the life of the store.

Reason

In the interests of highway safety.

10

The proposed landscaped area on the western side of the proposed access from Bawtry Road to the first car parking bay shall be maintained at a maximum height of 900mm above the nearside road channel.

Reason

In the interests of highway safety.

11

The vehicular access drive from Bawtry Road shall not exceed a gradient of 5% for a distance of 10 metres measured from the highway boundary and 10% thereafter.

Reason

In the interests of highway safety.

12

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

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

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.

13

Before the development is brought into use the car parking area shown on Drg NoC15A34-P003 Rev A shall be provided, marked out and thereafter maintained for car parking.

Reason

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

14

Before the development is brought into use a protocol for implementing, monitoring and reviewing the submitted Travel Plan, in conjunction with the Local Planning Authority, and a timetable for the implementation of the protocol and the travel plan, have been submitted to and approved in writing by the Local Planning Authority. The travel plan shall be implemented in full in accordance with the approved timetable and protocol unless otherwise agreed in writing by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

15

No development shall take place on the construction works of the building hereby approved 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 Core Strategy Policy CS28 'Sustainable Design.'

16

Landscaping of the site as shown on the approved plan (Vector drawing no V0491 L01D) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31<sup>st</sup> 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 Core Strategy Policy CS28 'Sustainable Design,' and UDP Policies , ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

17

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 the details submitted in the Arboricultural Report, Arboricultural Impact Assessment and Method Statement by Urban Green dated, May 2015. 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

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design,' and UDP Policies , ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

18

The approved development shall be implemented in accordance with the advice and recommendations within the submitted Arboricultural Report, Arboricultural Impact Assessment and Method Statement by Urban Green dated, May 2015 and in particular the recommended tree protection measures required throughout the development.

Reason

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design,' and UDP Policies , ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

19

All deliveries to, or collections from the store shall be carried out between the hours of 06.00 - 23.00 Monday to Saturday and 08.00 - 22.00 on Sundays.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with UDP Policy ENV3.7 'Control of Pollution'.

20

The store hereby permitted shall be open to the general public between the hours of 08.00 – 22.00 Monday to Saturday and between the hours of 10.00 - 17.00 on Sundays.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with UDP Policy ENV3.7' Control of Pollution.'

21

Notwithstanding the submitted details with regard to externally mounted plant/ equipment for heating, cooling or ventilation purposes (inc grilles, ducts, vents for similar internal equipment), no development shall take place on the construction works of the building hereby approved until a detailed noise mitigation strategy has been submitted to and agreed in writing with the Local Planning Authority to demonstrate that noise levels at the nearest noise sensitive property boundaries from the aforementioned equipment shall not exceed existing background noise readings by 5dB(A) during the day and 3dB(A) at night. The approved details shall be installed as approved prior to the use commencing and shall thereafter be retained and maintained and should not be altered / replaced without the prior written approval of the Local Planning Authority.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with UDP Policy ENV3.7' Control of Pollution.'

22

The development shall not be brought into use until details for the external illumination of the proposed store and car parking areas have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason

In the interests of neighbour and visual amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design,' and UDP Policy ENV3.7 'Control of Pollution.'

23

Prior to the commencement of construction works on the building hereby approved a biodiversity enhancement statement, including a schedule for implementation, shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed statement before the development is brought into use.

#### Reason

In the interest of biodiversity in accordance with CS20 Biodiversity and Geodiversity

24

The site has been characterised as a Gas Characteristic Situation 2. Prior to the commencement of construction works of the building hereby approved on site details of gas protection measures will need to be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to construction works commencing on site.

#### Reason

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

25

Remediation works (i.e. removal of underground tanks and grossly impacted soils; and soil capping works) shall be carried out in accordance with sections 4.1 – 4.15 (Remediation Method Statement) of the document entitled 'Proposed Aldi Store, Bawtry Road, Wickersley, Rotherham – Site Remediation Method Statement' - prepared by 3e Consulting Engineers Limited, ref 12693/RS Rev 2, dated May 2015.

The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

#### Reason

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

26

Prior to development if subsoil/topsoils are required to be imported to site for remedial works they shall be tested at a rate and frequency specified within sections 4.16 - 4.18 (Validation Testing and Reporting Requirements) of the document entitled 'Proposed Aldi Store, Bawtry Road, Wickersley, Rotherham – Site Remediation Method Statement' prepared by 3e Consulting Engineers Limited, ref 12693/RS Rev 2, dated May 2015. The results of testing will be presented in a Validation Report.

#### Reason

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

27

In the event that during development works unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Authority. Works thereafter shall be carried out in accordance with an approved Method Statement.

#### Reason

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

28

Following completion of the required remedial works a Verification Report should be forwarded to the Local Authority for review and comment. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the Local Authority.

#### Reason

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

29

No development shall take place on the construction works of the building hereby approved until there has been submitted to and approved in writing by the Local Planning Authority drawings including elevations/ details indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed prior to the store opening.



Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design.'

30

The window(s) on the elevation of the eastern facing elevation shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and shall not be openable by more than 150mm wide. The window(s) shall be permanently retained in that condition thereafter.

Reason

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

31

Details of the appearance and acoustic specification of the 2 metre high acoustic fence to the loading bay shown on the approved site plan, shall be submitted and approved by the Local Planning Authority. The approved details shall be implemented on site before the development is brought into use, and retained thereafter throughout the life of the development.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with Core Strategy Policy CS27 Community Health and Safety and UDP Policy ENV3.7 'Control of Pollution.'

32

The refrigeration units of all delivery/collection vehicles shall be switched off prior to arrival at the store between the hours of 2300 and 0700.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with Core Strategy Policy CS27 Community Health and Safety and UDP Policy ENV3.7' Control of Pollution.'

33

The reversing alarms and all other beepers/alarms of all delivery/collection vehicles shall be switched off whilst at the store between the hours of 2300 and 0700.

Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with Core Strategy Policy CS27 Community Health and Safety and UDP Policy ENV3.7' Control of Pollution.'

34

The engines of all delivery/collection vehicles shall be switched off when not manoeuvring and no horns sounded or radios used (except in an emergency) between the hours of 2300 and 0700.

## Reason

In the interests of the amenities of the locality and occupiers of the adjacent properties in accordance with Core Strategy Policy CS27 Community Health and Safety and UDP Policy ENV3.7' Control of Pollution.'

### **Informative(s):**

Environment Agency

Informative: For further information and advice about pollution prevention please refer to the Environment Agency's website to access Pollution Prevention Guidance Notes (<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>) and advice on how to get your site design right ([http://www.environment-agency.gov.uk/static/documents/Business/pp\\_pays\\_booklet\\_e\\_1212832.pdf](http://www.environment-agency.gov.uk/static/documents/Business/pp_pays_booklet_e_1212832.pdf)). You may also wish to contact our National Customer Contact Centre on tel. 08708 506 506 for site-specific advice on pollution prevention.

We recommend that developers should:

- 1) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- 2) Refer to the Environment Agency Guiding Principles for Land Contamination for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
- 3) Refer to our guiding principles on groundwater protection are set out in our document GP3 - Groundwater Protection Policy and Practice, which is intended to be used by anyone interested in groundwater and particularly those proposing an activity which may impact groundwater. GP3 is available on our website at:  
<http://www.environmentagency.gov.uk/research/library/publications/40741.aspx>
- 4) Refer to our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for more information.

### **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>RB2016/0357</b>
<b>Proposal and Location</b>	Change of use of barn & land to residential dwelling house (use class C3) and demolition of garage and store at land at Hardwick Lane, Aston, S26 2BE
<b>Recommendation</b>	Grant subject to conditions

This application is being presented to Planning Board as it does not fall within the Scheme of Delegation due to the number of objections.



### Site Description & Location

The site of application is a barn on Hardwick Lane, Aston, a small hamlet located adjacent to the M1. The hamlet contains a number of residential properties of varying ages, a farm and small garden centre. The barn itself is a utilitarian agricultural barn constructed in the 1970s. The barn is a steel portal frame, with a breeze block walling to ground floor and asbestos sheeting to the first floor and roof. The building has a number of window openings and two garage door openings.

The site is surrounded by a number of protected trees, with a small asbestos garage to the side.

## **Background**

RH1970/6456 - Erect agricultural store & workshop for repair of agricultural implements – Granted Conditionally.

### Condition 2

The building shall be used only in connection with the storage, repair or maintenance of agricultural machinery and equipment but not including the repair, maintenance or dismantling of private/commercial road vehicles or in respect of any other commercial/industrial undertaking.

RB2006/0931 - Retrospective application for the change of use of former agricultural barn to vehicle spraying - WITHDRAWN

## **Proposal**

The applicant proposes to demolish the existing detached asbestos garage and to convert the existing agricultural building to form a dwelling. One existing drive will be retained for two off street parking spaces, with the drive accessing the asbestos garage closed off by way of a newly planted hedge and used as a small garden space.

The proposed conversion involves the following alterations:

- The conversion of building to form a 3 No. bedroomed dwelling, including an integral garage.
- No major/substantial re-building work is required, nor extensions to the footprint.
- Existing concrete blockwork walls will be retained in their current form and position.
- An open plan ground floor arrangement with 1.8/2m partition walls will divide each living space and also the upper area.
- The building will utilise the current connections to the water and electricity mains and no major work is required by statutory undertaker in this regard.
- The use and retention of all existing openings, with only one alteration to the size and form of the front timber access door and the replacement of the floor to ceiling timber sliding door with a full height window on the southern end elevation.
- Replacement of existing doors and windows with contemporary styled graphite black aluminium.
- Replacement conservation style rooflights.
- Timber cladding to all upper elevations, to replace fibre cement sheeting.
- The replacement of the fibre cement roof with eco plastic slates.

The applicant's arboriculture method statement states that:

- The six trees provide important amenity to the local area.
- The proposals will allow retention of all six trees with no disturbance to soils within the root protection areas.
- Some very minor pruning to crown lift two of the trees and remove dead wood from five of the trees has been recommended. This work is becoming necessary irrespective of the development proposals and will not adversely affect the health amenity of the trees.
- The trees will not cast undue shade on the living space of the proposed dwelling due to the orientation of the main windows.
- Some minor operations to construct a footpath are proposed within the Root Protection Area of tree 2. Provided this construction uses a 'no dig' method this will have no detrimental impact on this tree.
- The long term amenity provided by the trees will not be affected by the proposals.

The applicant has also submitted a bat survey which concludes:

- There is no sign of either droppings or food in the subject building.
- The building and the immediate area is considered to be a low to moderate habitat value.

### **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 for Green Belt purposes 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  
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):

ENV3.7 'Control of Pollution'  
ENV3.4 'Trees, Woodlands and Hedgerows'

### **Other Material Considerations**

Interim Planning Guidance - 'Development in the Green Belt'. This has been subject to public consultation and adopted by the Council on 3<sup>rd</sup> March 2014.

South Yorkshire Residential Design Guide.

Supplementary Planning Guidance - Housing Guidance 3: 'Residential infill plots,'

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 notes that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. The Rotherham Unitary Development Plan was adopted in June 1999 and the NPPF adds that in such circumstances 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 policy(s) 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 site notice along with individual neighbour notification letters to adjacent properties. 6 letters objecting to the application have been received. One of the letters of objection comes from Aston cum Aughton Parish Council.

The six letters of objection state that:

- Concerns about the roof containing asbestos.
- There are a number of glass windows that face directly onto our garden eradicating any privacy which there currently is. These windows will also allow view through every window to the front of our property eliminating privacy on both properties even more.
- The large contemporary window is out of character with the rest of the lane causing more concern about losing the lane's character.
- Assurances required that the drainage of waste and water is dealt within a suitable and hygienic manner.
- As a single-track lane that leads to a dead end I feel that there is already a substantially large amount of traffic, more than should reasonably be expected. To add to this there are already many cars

often parked on the roadside outside my property therefore adjacent to the building in question.

- This building was originally only passed at planning for use as an Agricultural building and for no other reason. It has been used for several different kinds of business and has even been used for storing a Hearse.
- We would need assurances that any proposed fencing, walling would not impede any sightlines to the access and egress from the private drive which is Spa Cottages right of way.
- There are six trees on the sight which have TPO's on them. We would need assurance that these trees will not be removed.

Aston cum Aughton Parish Council state that:

- Object to the proposed development on the basis that the intended use is not one for purely agricultural purposes, and therefore it would be considered unnecessary and unacceptable development of domestic property within the Green Belt.

## **Consultations**

Streetpride (Transportation and Highways) – No objections subject to relevant conditions.

Streetpride (Tree Service Manager) – Provided the development is implemented in accordance with the submitted 'Pre-development Arboricultural Method Statement' dated, 22 April 2016, the submitted information has overcome any previous concerns regarding the possible adverse impact of the proposed development on the existing protected trees on the site. In addition, the relevant tree work and tree barrier fencing planning conditions are recommended with any permission.

## **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.
- The sustainability of the new dwelling.
- The impact upon traffic and highway safety.
- The visual appearance of the property and its appearance in the streetscene.
- The impact upon neighbouring amenity.
- Drainage issues.
- The impact on protected trees.
- Affordable housing contribution.

### The principle of the development

Core Strategy CS4 – Green Belt states: “Land within the Green Belt will be protected from inappropriate development as set out in national planning policy”

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

The Council’s Interim Planning Guidance on ‘Development in the Green Belt,’ further goes on to state that: “For a building to be of permanent and substantial construction it must have walls and a roof, be structurally sound and not require significant re-building, cladding or significant external alterations. This would also include a building that would require significant internal alterations to bring it up to habitable standards unless it is desirable to retain the building because of the historic value or visual amenity that it provides.”

The building in question is a 1970’s steel portal agricultural building which has been in use for the past 45 years. The building is therefore a permanent structure. The building is in a good structural condition, with no obvious signs of any structural issues or any decay. The ground floor element is constructed in breeze block walling with a number of existing window openings, with the first floor clad in asbestos style sheeting and an asbestos roof.

A number of alterations are proposed to make the building habitable as a residential property. These include new stained timber rustic vertical cladding to replace existing cladding to the walls, new insulated recycled plastic slates to the roof (incorporating 6 existing rooflights), a larger window opening to the front and a new internal first floor. The first floor would be supported by internal structures to keep joist spans reasonable and keep the additional load on the existing posts minimal. No extensions are proposed, no work to the foundations are required, and all the external window openings are to be retained with new aluminium window frames added.



As such taking account of the above, it is considered that the building is of a substantial and permanent construction and the proposal is in accordance with the advice set out in the NPPF and to Council's Interim Planning Guidance on 'Development in the Green Belt' and, therefore, does not represent inappropriate development.

#### 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 or height. The applicant also proposes to remove a small redundant asbestos garage and remove an existing hardstanding within the curtilage to form a garden. The proposal is therefore not considered to have any additional impact on the openness and appearance of the Green Belt than the existing structure and will result in a slight improvement in openness.

As such, the change of use is considered to have no significant visual impact on the surroundings and conforms with Core Strategy CS4 – Green Belt, and the NPPF.

In addition, in view of the fact that the new dwelling is being allowed due to its minimal impact upon the openness of the Green Belt it is considered reasonable to remove permitted development rights for further extensions to the property and for outbuildings, which could otherwise be constructed without permission. The applicant has agreed to the imposition of such a condition.

#### The sustainability of the new dwelling.

The NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances such as the essential need for a rural worker; where it would represent the optimal viable use of a heritage asset; where it would lead to reuse of a redundant or disused building; or the development is of exceptional quality or innovative design (paragraph 55).

The dwelling is located within a small hamlet outside of Aston village separated by the M1 motorway, which is poorly served by local amenities. The hamlet is not identified as a village suitable for infill residential development within UDP Policy: 'ENV1.5 Infilling within Green Belt Villages'. The site is however within walking distance of a local bus stop, which allows access to local town centres and the proposal will reuse an existing structure. As such, it is considered that in this instance the proposal would not represent unsustainable development considering its scale.

### The impact upon traffic and highway safety.

A number of objectors have raised concerns regarding on street parking resulting from the development. The applicant has designed the scheme to ensure two off street parking spaces, and the change of use removes traffic relating to the authorised agricultural use. The proposed two off street parking spaces is considered appropriate for a four bedroom property and complies with Council Guidance in this respect.

### The visual appearance of the property and its appearance in the streetscene.

Core Strategy Policy CS28 – Sustainable Design states: “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. Design should take all opportunities to improve the character and quality of an area and the way it functions.”

The NPPF further 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 South Yorkshire Residential Design Guide (SYRDG), is further considered to be of relevance in assessing the appropriateness of this development, in particular Chapter 4A, section A.1, paragraph A.1.1 which states “Back gardens of houses should be appropriate to the size of the property, its orientation and likely number of inhabitants. Private gardens of two bedroom houses / bungalows should be at least 50 sq. metres; for three or more bedroom houses / bungalows, 60 sq. metres. Smaller gardens may be acceptable in corner zones or blocks if privacy and day lighting can be maintained.”

The applicant has specifically designed the scheme to minimise the visual impact upon the Green Belt and to improve the appearance of an otherwise utilitarian building. The conversion involves new timber cladding and a slate style roof, which will be a big visual improvement upon the poor quality asbestos sheeting. Furthermore the applicant proposes conservation grade rooflights and high quality aluminium windows. Such materials and detailing will have a good quality appearance appropriate for its rural setting.

Furthermore the internal accommodation far exceeds the minimum standard set out within The South Yorkshire Residential Design Guide, and the proposed garden at 140sqm exceeds the Council’s minimum.

Having taken account of the above it is considered, that the proposed conversion fits in with the character and scale of the streetscene, subject to the use of appropriate materials.

#### The impact upon neighbouring amenity.

Turning to the issue of residential amenity, the NPPF, at paragraph 17 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 further goes on to state 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 buildings.”

The Council’s inter-house spacing standards outlined within adopted Supplementary Planning Guidance - Housing Guidance 3: ‘Residential infill plots,’ indicates that there should be a minimum of 20 metres between habitable room windows, 12 metres minimum between a habitable room window and an elevation with no windows, and no elevation containing habitable room windows at first floor should be located within 10 metres of a boundary with another property.

With regard to neighbouring amenity the scheme will result in new first floor habitable room windows to the front and side. First floor windows to the rear have been avoided to prevent overlooking to the garden of Spa Bungalow. The first floor windows to the side would be approximately 14m from the front boundary, and 29m from the front elevation, of the dwellings known as 1 and 2 The Cottages. Such separation distances exceeds the Council’s minimum requirement of 10m and 21m respectively. Furthermore the front first floor window is set 15m from the front garden of Hardwick Lane Farm, which again meets the minimum requirements.

With the above circumstances in mind no significant harm to neighbouring amenity is envisaged.

#### Drainage Issues

A number of objectors have raised concerns regarding the proposed drainage and sewage arrangements. The applicant has indicated that the scheme will utilise the utilities associated with the agricultural workshop. Furthermore appropriate drainage is considered in detail as part of any Building Regulations approval.

#### The impact on protected trees

Policy ENV 3.4 Trees and Woodlands states that the Council will seek to promote and enhance, tree hedgerow and woodland coverage throughout the Borough.

It is noted that no extensions are proposed and as such no additional structures will come closure to the protected trees on site. The Council's Tree Officer considers that the proposal is acceptable subject to any pruning in accordance with the applicant's Arboricultural Method Statement and protective fencing being erected on site during the build process.

#### Affordable housing contribution

Following the recent Court of Appeal judgement (Secretary of State for Communities and Local Government v West Berkshire District council (1) and Reading Borough Council (2) [2016] EWCA Civ 44) on 11th May 2016, the lower threshold requirements for development schemes (i.e 10 or less dwellings) to provide a Section106 financial contribution towards off-site affordable provision were quashed. Until such time that any further judgements are made on this matter, the Council is no longer seeking a financial contribution or on site provision under its adopted Core Strategy Policy CS7 'Housing Mix and Affordability.'

#### Other matters raised by objectors

A number of objectors have raised concerns regarding the disposal of asbestos during the conversion and demolition of the detached garage. This is primarily a health and safety issue and as such an informative has been attached making the applicant aware of their duty to dispose of the material in a safe manner.

An objector has raised concerns that the building has been used for non-agricultural uses in the past. The Council considers that the current authorised use is agriculture and that any past unauthorised uses do not have a bearing on the principle of the conversion referred to above.

Finally in terms of potential fencing blocking the sightlines for those accessing Spa Cottages, a condition has been attached requiring details to be submitted of any new fencing and this matter can be addressed under the discharge of that condition.

#### **Conclusion**

The building is considered to be of permanent and substantial construction and its conversion to residential use is therefore considered appropriate in the Green Belt. In addition, the proposed development would not have a greater impact on the openness of the Green Belt than the existing permanent built form. The development is considered to represent sustainable development and would not have an adverse impact on neighbouring residents or highway safety, or on protected trees close to the building. The proposal is therefore in accordance with relevant Development Plan Policies, the Interim Planning Guidance - 'Development in the Green Belt,' and advice in the NPPF.

## **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)

(Drawing No. 02 Rev B, received 09 May 2016)

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted application form. The development shall thereafter be carried out in accordance with these details.

Reason

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

04

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

05

The proposed garage door shall be set in so as to provide a minimum 5m long parking space to the front.

Reason

To ensure there is adequate space to park on the drive in the interests of highway safety.

06

No work or storage on the site shall commence until all the trees/hedges 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 the submitted details within the Pre- development Arboricultural Method Statement by Ian Kennedy, Wharnccliffe Trees and Woodlands Consultancy dated, 22 April 2016. 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 interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

07

All tree works shall be carried out in accordance with B.S.3998: 2010 Tree work - Recommendations and shall not exceed the schedule of pruning indicated in Table 2 of the submitted Pre- development Arboricultural Method Statement by Ian Kennedy, Wharnccliffe Trees and Woodlands Consultancy dated, 22 April 2016, unless otherwise agreed in writing with the Local Planning Authority. In addition no tree work shall commence until the applicant or his contractor has given at least seven days notice of the intended starting date to the Local Planning Authority. The authorised works should be completed within 2 years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

Reason

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

08

The dwelling shall not be occupied 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/planted. Any new boundary treatment/planting shall be erected/planted in accordance with these details. The boundary treatment shall include the retention of all existing hedging, and the provision of new hedging across the southerly access point that is to be closed off.

Reason

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

09

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no enlargement of the dwellinghouse or freestanding buildings, permitted under Part 1, Classes A, B, C, D & E, shall be carried out without the prior written approval of the Local Planning Authority.

Reason

So that further alterations and extensions can be controlled by the Local Planning Authority in order to maintain the openness and appearance of the Green Belt.

**Informative(s)**

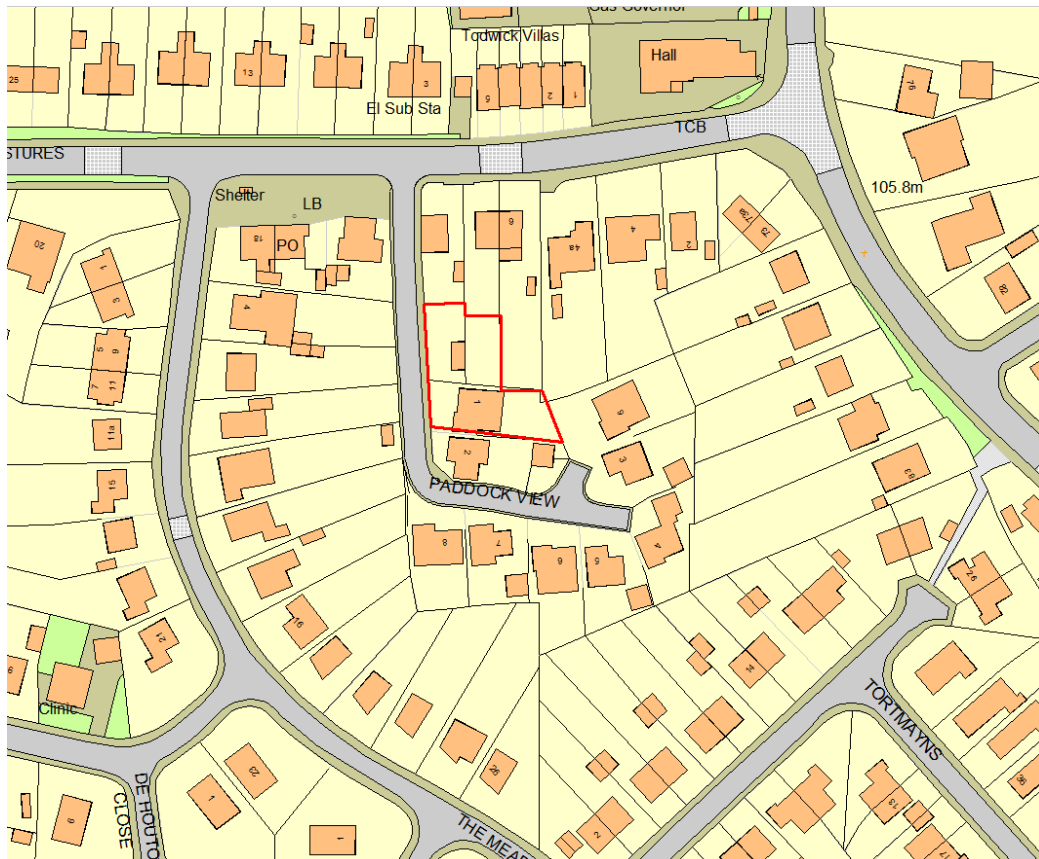
Based on information provided with this application it has become apparent that asbestos containing material may be present within the existing building structure. The removal of asbestos materials must be carried out in accordance with appropriate guidance and legislation including compliance with waste management requirements. Accordingly any works should be managed to avoid damage to any asbestos containing material such as to prevent the release or spreading of asbestos within the site or on to any neighbouring land. Failure to comply with this may result in the matter being investigated by the Health and Safety enforcing authority and the development not being fit for the proposed use. In addition the developer may incur further costs and a time delay while ensuring the matter is correctly resolved.

**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>	RB2016/0495
<b>Proposal and Location</b>	Erection of detached garage at 1 Paddock View, Todwick, S26 1JY
<b>Recommendation</b>	Grant subject to conditions

This application is being presented to Planning Board as it does not fall within the Scheme of Delegation due to the number of objections.



### Site Description & Location

The site of application is to the side of No. 1 Paddock View on land that was formally part of the rear gardens of Nos. 8 & 10 The Pastures. The land in question is to the north of 1 Paddock View and has at some point in the recent past been bought by the occupiers of 1 Paddock View and incorporated into the garden area of their property and now forms part of their private garden area. Planning permission is not required to alter gardens from one property to another as no change of use has occurred.

There are also two protected trees on the site, one to the road frontage of The Pastures and one further to the north of the site. The trees are part of Tree Preservation Order (No. 3) 1971. The Pastures is characterised by 9 large two storey detached properties. The site in question is close to the entrance of The Pastures and would figure prominently in the street scene of the road.



## **Background**

The relevant planning history is as follows:

RB2016/0417: Application to fell silver birch protected by RMBC Tree Preservation Order No. 3, 1971 – GRANTED CONDITIONALLY 13/05/16

RB2016/0010: Erection of dwellinghouse (amendment to RB2015/0661) – WITHDRAWN 15/04/16

RB2015/0661: Erection of dormer bungalow - REFUSED 15/09/15 for the following reasons:

01

The Council considers that the erection of a dormer bungalow in this location is materially harmful to the character and appearance of the surrounding area by introducing a dwelling that is of an alien design, massing, scale and appearance harming the streetscene of Paddock View. As such, the proposed development would be contrary to advice in the National Planning Policy Framework and Rotherham Core Strategy Policy CS28 'Sustainable Design'.

02

The Council considers that the loss of the protected Silver Birch Tree (T14), which has good future prospects, would materially harm the visual amenities of the area and is contrary to UDP Policy ENV3.4 'Trees, Woodlands and Hedgerows'

03

The Council considers that the applicant has failed to provide adequate information about flood risk at the site from surface water flooding and how it would be mitigated. As such, the application is contrary to Core Strategy Policy CS25 'Dealing with Flood Risk.'

RB2003/0392: Erection of 8 detached dwellings and garages - GRANTED CONDITIONALLY 25/09/03

## **Proposal**

The proposal is to construct a detached double garage with an additional storage room at ground floor and gym at first floor level. The garage would measure 10.2 metres in length and 7 metres in depth. The height to the eaves of the roof would be 2.2 metres with the height to the ridge of the roof of 4.5 metres. The roof would be tiled and would be a dual pitched roof with Dutch hips.

The garage would have two garage doors with a window to the front elevation and a door to the rear. There would be 2 No. flat roofed dormer windows to the front elevation.

The garage would be constructed of brick with a tiled roof to match the existing dwelling house.

### **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 application site is allocated for 'Residential' purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):  
ENV3.2 'Minimising the Impact of Development,'  
ENV3.3 'Tree Preservation Orders'

### **Other Material Considerations**

Interim Planning Guidance - 'Householder Design Guide'. This has been subject to public consultation and adopted by the Council on 3rd March 2014 and replaces the adopted Supplementary Planning Guidance 'Housing Guidance 1 – Householder development' of the UDP.

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**

Neighbouring adjoining residents have been notified of the application in writing. Five representations have been received by neighbours objecting to the application, as well as a comment from Todwick Parish Council.

The comments raised by the residents shall be summarised below:

- No objections are specifically raised to building a garage at the property though the size and scale of this garage is unacceptable in this location.
- The proposed garage looks very similar to the plans for a detached bungalow on the site that was previously refused.
- The garage would overshadow neighbouring properties gardens and would reduce natural light into the estate.
- The garage could harm the ability of neighbours to sell their properties in the future.
- It is too large for a garage.
- It will cause flooding problems.
- It takes up too much of the garden area.
- It will harm or kill the protected tree on the site.
- The area cannot sustain any more development and will become overcrowded.
- The garage would be materially harmful to the character and appearance of the surrounding area.
- There is no need for this building as the house already has a double garage.
- This is just a way around the previously refused application for a bungalow with the applicant intending to use it for residential purposes.
- The garage will harm the character and appearance of the surrounding area.

Todwick Parish Council commented that the additional hard surfacing to be created in association with the application will exacerbate flooding problems in the area.

## **Consultations**

Streetpride (Transportation and Highways Unit): Raise no objections to the proposal in highway terms subject to a condition requiring that the parking areas are suitably hard surfaced.

Streetpride (Drainage): Have commented that there is a risk of surface water flooding in this location but the proposed development at ground floor level will be non habitable space. As such, simple measures could make the building flood resilient and no objections are raised to this proposal subject to an informative advising the applicant of flood resilient construction measures.

Streetpride (Tree Service Manager): Raises no objections to this application subject to a condition relating to tree protection measures being submitted to and agreed with the Council and the agreed protection measures in place before the development takes place.

## **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
- Design and appearance of the proposed garage
- Impact on neighbouring residents
- Impact on protected trees
- Transportation issues
- Drainage and flood issues
- Other issues raised by objectors

## Principle of development

The property is located within the village of Todwick and is allocated for residential use in the adopted Unitary Development Plan. As such, it is considered that the principle of the construction of an ancillary residential outbuilding to this domestic property is acceptable in principle.

### Design and appearance of the proposed garage

In assessing the design of the proposed garage and the surrounding area, Core Strategy Policy CS28 – Sustainable Design notes 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.”

Furthermore, 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 Council’s Interim Planning Guidance – ‘Householder Design Guide’ advises that: “Garages should generally be restricted to rear and side gardens where they may benefit from permitted development. Garages that require permission should not be of an excessive size and height and the use of concrete sectional garages should be avoided in prominent locations visible from the public highway. The Council will not be supportive of garages in front gardens unless it can be demonstrated that no harm to the street scene will occur.”

With regards to the design of the garage it is noted that the garage is of significant size with a footprint of 70 square metres and with a room in the roofspace. However, the host property is relatively large with a large side garden (formerly the bottom end of the garden of 10 The Pastures). The garage’s design and appearance is distinctly domestic and is considered to be commensurate for its intended use and is considered to match the design, appearance and scale of the host property No. 1 Paddock View.

The garage would be located roughly in line with the host property and would not stand forward of the dwelling house.

It is noted that neighbouring residents have raised concerns about the design of the garage. However, it is considered that it is of an acceptable design and would not harm the character and appearance of the host property or the streetscene of Paddock View.

### Impact on neighbouring residents

With regards to neighbouring amenity it is noted that the garage would be set away from neighbouring boundaries being located approximately 2 metres away from the boundary with the neighbouring property to the east (No. 6 The Pastures) and approximately 2.4 metres from the rear garden boundary with No. 8 The Pastures, and approximately 21m from the rear elevation of that property. It is noted that the total height of the garage would be 4.5 metres to the ridge of the roof. As such, it is considered that the garage would not appear overbearing to neighbouring residents or would lead to overshadowing of neighbouring residents gardens due to the height of the garage and the distance from the boundaries.

It is noted that the first floor of the garage would be used as a gym and would have two windows on the front elevation overlooking the road and not overlooking neighbouring properties. It is noted that the gym windows would be located approximately 15 metres from the boundary with neighbouring properties across the road on The Meadows. As such, it is considered at these distances there would be no unacceptable overlooking from the use of the first floor gym of the garage.

### Impact on protected trees

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

The Council's Tree Service Manager has stated that the site contains a Silver Birch tree protected as T14 of Tree Preservation Order No 3 1971. According to the submitted site layout plan T14 is shown to be retained as part of the proposed development. However, consent was sought to fell T14 (RB2016/0417) that has subsequently been granted subject to planning conditions including replacement planting.

The recommended position of the replacement tree is closer to the new garage than the existing tree. If consent is granted for the new garage and the replacement tree is planted prior to its construction its future prospects will need to be safeguarded throughout any development. This may be achieved by the provision of protective fencing in accordance with BS 5837 Trees in Relation to Demolition, Design and Construction.

Therefore no objections are raised to this application subject to a condition relating to tree protection measures being submitted to and agreed with the Council and the agreed protection measures in place before the development takes place.

### Transportation issues

In highway terms the Council's Transportation and Highways Unit raise no objections to the proposal in highway terms subject to a condition requiring that the parking areas are suitably hard surfaced.

## Drainage Issues

UDP Policy ENV3.2 'Minimising the Impact of Development,' notes that: "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..."

The NPPF further advises at paragraph 103 that: "When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems."

With regards to drainage matters the Council's Drainage Engineers have commented that there is a risk of surface water flooding in this location but the proposed development at ground floor level will be non habitable space. As such, simple measures could make the building flood resilient.

## Other issues raised by objectors.

It is noted that objectors have raised concerns that the application for the garage is similar to a previous planning application on the site for a detached bungalow. They have raised concerns that this application is a back door way of getting a bungalow on the site in the near future. However, it is noted that the application (RB2015/0661) for the proposed bungalow was considered, on its own merits, to be unacceptable, partly due to the reason that it would introduce a dwelling that is of an alien design, massing, scale and appearance harming the streetscene of Paddock View. It was of a different nature to the application currently under consideration which is for a domestic garage associated with the host property.

Furthermore it is considered that to change the use of the garage into a separate domestic property would require planning permission in its own right and is therefore controlled by the planning system. Any such proposal would have to demonstrate that it had its own sufficient private amenity space, which it is considered would be difficult to demonstrate on the basis of the proposed location of the double garage. Therefore it is considered that the current application would not lead to the granting of a domestic dwelling in this location.

It is noted that concerns were raised about reducing the value of neighbouring properties and potentially making them harder to sell. These points are not material planning considerations and cannot be taken into account in the assessment of this application.

It is noted that a neighbouring resident objected to the application claiming that as the house already has a double garage it does not require this building. The applicant has stated that the existing garage can only contain a single car due to its limited width, and as it is also used to store gym equipment (which would move into the new building). He adds that he is looking to buy a classic car that would need garaging in addition to his existing vehicle. Finally, the applicant notes that the drive in front of the existing garage door is limited in length such that his car overhangs the pavement when parked in front of the garage, whilst allowing the garage door to be opened for access. This issue would be overcome by the provision of the proposed additional garaging/parking facilities.

## **Conclusion**

Taking account of the above, it is considered that the erection of a double detached garage is of an appropriate scale, position and design so as to remain subservient to the existing dwelling, and be sympathetic in the wider locality and streetscene.

Additionally the proposal is not considered to have any detrimental impact on the residential amenity of adjacent occupiers by way of overbearing impact or loss of privacy due to its design and position, and as such accords with both local and national planning guidance and emerging guidance.

It is considered that the development would not lead to any harm in terms of flood risk to the wider locality or harm the protected tree to be retained on the site.

Furthermore, it is not considered that the proposals would be detrimental in highway safety terms, subject to a condition relating to the hard surfacing of the proposed parking areas.

Taking all of the above into account, as the application is therefore recommended that the application is granted planning permission.

## **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 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 Core Strategy Policy CS28 'Sustainable Design.'

03

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

04

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

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3.4 'Trees, Woodlands and Hedgerows'.

### Informative

Flooding - Whilst the property does not lie within the flood plain as shown on the Environment Agency's Indicative Flood Plain Maps it is noted that the site is within an area that has historically flooded in the past. It is important that the proposed outbuilding must be designed and constructed, to protect and safeguard against all possible risks from flooding. Further guidance on how properties may be protected against possible flooding problems can be found on the Environment Agency's web site. In all events the proposed extension must not divert or create or cause additional flood water problems to any adjacent or neighbouring land.

### 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.