

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE  
26<sup>TH</sup> JUNE 2014**

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

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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>RB2014/0150</b>  |
| <b>Proposal and Location</b> | Demolition of existing buildings and erection of 1 No. B2 unit and 9 No. B8 units with ancillary trade counters (use class sui generis) at Ruscon Works Rotherham Road Parkgate |
| <b>Recommendation</b>        | Grant Conditionally   |



**Site Description & Location**

The application site has a long frontage onto Rotherham Road, the main road through Parkgate. It is bounded to the south by The Gateway, and to the north and west by other commercial premises. The site is within an area used for commercial/retail uses, with larger areas of retail uses beyond this. The site currently has industrial buildings in situ, one very large blue clad building being prominent within the site. The site is highly visible from Rotherham Road, and has two existing vehicular access points onto Rotherham Road. The site is approximately 1.3 ha in size and is level.

There are a number of trees within the highway verge at the front of the site along Rotherham Road.

**Background**

The site has been used for industrial purposes for at least the last 50 years.

RA1965/1079 – Extension to brick store granted 8<sup>th</sup> April 1965.

RB2005/0429 – Outline application for the demolition of existing buildings and erection of a DIY retail store and garden centre with associated car parking including details of means of access at the Ruscon Works, Rotherham Road, Rotherham. Refused 24<sup>th</sup> November 2005.

This application was refused on the grounds of insufficient retail need for the application when considered alongside the application by Henry boot developments on the Ron Hull Site. An appeal was subsequently submitted by the applicant, however it was withdrawn on 27<sup>th</sup> April 2005.

RB2006/0889 – Outline application for the demolition of existing building and the erection of a warehouse with trade counter (comprising 20% retail floorspace)(Sui Generis Use) including details of means of access at Ruscon Works, Rotherham Road Parkgate for Litton Properties Ltd approved 3<sup>rd</sup> August 2006.

RB2007/2371 Details of a building (reserved by outline RB2006/0889) containing seven warehouse/trade counter units approved 6<sup>th</sup> March 2008.

RB2008/0731 Details of the erection of a building containing seven warehouse/trade counter units (reserved by outline RB2006/0889)(Amendment to previously approved scheme RB2007/2371REM) approved 18<sup>th</sup> July 2008.

RB2011/1025 Outline application for the demolition of existing building and the erection of a warehouse with trade counter (comprising 20% retail floor space)(Sui Generis Use) including details of means of access (renewal of permission RB2006/0889) approved 27<sup>th</sup> September 2011.

The proposed development falls within the description contained at paragraph 10a (Industrial Estate Development) of Schedule 2 to the TCP (Environmental Impact Assessment) (England and Wales) Regulations 2011 and meets the criteria set out in column 2 of the table in that Schedule (the area of development exceeds 0.5 hectares). However the Borough Council as the relevant local planning authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

Accordingly the authority has adopted the opinion that the development referred to is not EIA development as defined in the 2011 Regulations.

## **Proposal**

The application is submitted by Litton (Parkgate) Limited, and they are seeking permission for the demolition of all existing buildings and structures on site and the construction of 4,358sqm of warehouse development providing nine units with trade counter use (class B8) and a tenth unit which would be occupied by National Tyres and Autocare (class B2). The scheme includes a new access off Rotherham Road along with parking servicing and landscaping.

The ten units will be located in a terrace occupying the central part of the site, parking is proposed to the east of the buildings and along the sites frontage, within the site.

The building is proposed to be 151m long, 35m wide, 7.5m to the eaves and 11m to the apex of the roof. The units will range in size from 211sqm to 483sqm. The building is to be constructed from colour coated panel metal cladding and profiled metal built up cladding, and the roof will be constructed from composite profiled metal sheeting with in-plan roof lights.

A new access into the site is proposed off Rotherham Road to the east of the site. The proposal includes a two lane exit and the provision of a ghost island right turn lane on Rotherham Road. The proposal has been amended at our request to reduce the number of proposed car parking spaces, the amended plans now show 96 customer car parking spaces. Pedestrian access is gained via the main entrance off Rotherham Road, with a further designated walkway off the Gateway. Service vehicles will access the site from a separate entrance off the Gateway into a service area, this will also include 2 bin stores.

The proposed location of the new vehicular access off Rotherham Road will require the removal of three existing trees within the highway verge. These trees will be replaced with 5 extra heavy standard trees, to create an avenue effect along the frontage.

The supporting documents have been submitted with the application

#### Planning Statement

This states that the proposed redevelopment will make a significant contribution to the creation of a strong, competitive local economy. It states that jobs will be created, and the proposal will provide physical environmental improvements and is in a sustainable location.

#### Transport Assessment

This states that the TA demonstrates that the proposed access onto Rotherham Road and the warehousing with associated trade counters and the B2 use can operate satisfactorily. It states that the closure of the existing two accesses and replacing them with one will reduce the number of site accesses onto the A633 Rotherham Road from two to one to the benefit of road safety and other road users. It concludes that the application proposals will not result in demonstrable harm to highway interests.

#### Design and Access Statement

This states that the layout of the proposal corresponds to the earlier approved schemes at the site with the principal building façade facing east, onto Rotherham Road with the rear service façade facing west. The document states that the design, scale and massing of the proposal are inkeeping with the surrounding locality.

#### Flood Risk Assessment

This document summarises the issues relating to the potential for flooding at the site in accordance with the guidance contained within the NPPG.

#### Ground Investigation Report

This document concludes that the only elevated contaminant compared with human health assessment values for commercial/industrial end use is lead, and the pathway

can be removed by the use of tarmac, concrete and the capping layer within landscaped areas.

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

The application site is allocated for Industrial and Business Use within the adopted Rotherham Unitary Development Plan. The following policies are therefore relevant to the determination of the application –

EC3.1 Land Identified for Industrial and Business Development  
EC3.3 Other development within Industrial and Business Areas  
ENV3.1 Development and the Environment  
T6 Location and Layout of Development

### **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 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 was advertised in the press, on site and the occupiers of 7 nearby properties were consulted by letter. No representations have been received.

### **Consultations**

Transportation Unit – The application as submitted is acceptable subject to recommended planning conditions. The committed bus lane scheme would impact on the submitted plans, however the applicant has requested they be determined as submitted.

Streetpride – Landscape Design – No objections subject to replacement tree planting as shown on the amended landscape scheme.

Environment Agency – No objections subject to the implementation of the FRA.

Neighbourhoods – Environmental Health – No objections subject to the use of recommended conditions.

## **Appraisal**

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

- (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 considerations to be assessed in the determination of this application are as follows –

The Principal of the Development

The visual appearance and impact of the development

Flooding

Highway Safety issues and Sustainability

The Principal of the Development

The principle of trade counter development on this site is established and outline consent remains extant for such a use under planning permission reference RB2011/1025. The site is allocated for Industrial and Business Use within the UDP. The application seeks permission for B8 warehouse uses with 20% ancillary trade counters in 9 units, and 1 unit to be used for s B2 uses to fit tyres and other vehicle associated activities such as MOTs and general maintenance. The application names 'National Tyres and Autocare' as an end user for the unit however any use in B2 could be operated from the unit.

The proposal is therefore seeking permission for uses at that are considered acceptable within a commercial area allocated for industrial and Business Use within the Rotherham UDP. Whilst the proposal contains the provision for 20% of the floor space to be used as trade counters it is considered that typically trade counter proposals involve the distribution and sale of bulky goods primarily trade individuals and organisations with limited sales to the public, however these cannot be excluded. Generally given the nature of the goods sold from trade counters, and significant activity by commercial vehicles to collect/drop off goods, they can only realistically be located in an out-of-centre location with good vehicular access.

The overall use of the site is considered to be Sui Generis due to the mix of uses proposed, however they are considered to be acceptable in nature in this location on a site allocated for industrial and Business Use. The proposal will make a significant contribution to the creation of a strong, competitive local economy. The proposal will bring the site back into a productive use and will create job opportunities for local people

The size of the units is proposed to vary in size from 211sqm to 483sqm. The previously approved application had a condition attached limiting the size of each unit to

no less than 465 square metres, the reason given for the condition was to ensure that the development is compliant with PPS4, and to ensure that they would not have an adverse impact on Rotherham Town Centre. Within this current scheme 4 of the units fall below the previous threshold, however as the units proposed are to be used for B2 and B8 it is not considered that their use would have an impact on the Town Centre and for this reason, it is not considered appropriate to attach such a threshold condition as B2 and B8 uses are fully permitted on this site which is allocated for industrial and business use within the UDP.

It is therefore considered that the proposal is in compliance with policies EC3.1 'Land Identified for Industrial and Business Uses' and EC3.3 'Other Development within Industrial and Business Areas', and the objectives of the NPPF. It is therefore considered that the development is acceptable in principal.

### The Visual Appearance and Impact of the Development

The site currently has a large industrial building in situ which is bright blue in colour. This remains on site from the previous industrial use of the site. The proposed new building is to be located in a similar location to the existing building with an area of car parking to the front between the building and the road.

The building is to be a contemporary commercial building in design which will deliver the physical regeneration of this unused industrial site. It is considered that the appearance, scale and massing of the development are wholly appropriate and correspond with the character and scale of the surrounding locality.

The proposal includes landscaping, with low level planting and shrubs creating a buffer between the proposed development and the road. The proposal would require the removal of five trees within the highway verge, however these trees will be replaced with extra heavy standard trees. There are numerous services along the frontage of the site, however the agent has confirmed that the presence of the services will not impact on the provision of the replacement trees that are sown on the amended landscape plan.

The proposal includes the provision of a knee rail fence around the front of the site. The application proposes a timber knee rail, however it is considered more appropriate that a bespoke metal knee rail is provided as this would be more durable and visually enhance the site boundary.

It is therefore considered that the proposal will significantly improve the visual appearance of this prominent vacant site. It is considered that the proposal is in accordance with UDP Policy ENV3.1 'Development and the Environment', and the requirements of section 7 of the NPPF which seek to ensure that high quality design standards are achieved.

### Flooding

The application site is shown to be within Flood Zone 3 on the Environment Agency flood map, and is also covered by the Rotherham Flood Risk Toolkit. A Flood Risk Assessment and a Drainage strategy have been submitted in support of the application. As a result there are no objections from the Environment Agency subject to the implementation of the recommendations in the FRA. Additionally, as the proposal is for



the redevelopment of an existing business site, there is no requirement to carry out the sequential test in accordance with the Rotherham Flood Risk Tool Kit. The proposal is therefore considered to be in accordance with guidance in the NPPG and the policies within the NPPF.

#### Highway Safety Issues and sustainability

The site currently has two extant planning permission, RB2011/1025 outline for warehouse with trade counter including details of means of access and RB2013/1058 full application for a new access into the site from Rotherham Road. This current planning application seeks full permission for the extant use and also includes the proposed new access off Rotherham Road.

A Transportation Assessment has been submitted in support of the application which concludes that the development is unlikely to create traffic related problems in A633 Rotherham Road. The original submission included the provision of 120 car parking spaces, however this has been amended to reduce the number of spaces to 96 in line with the Councils maximum parking standards.

On 2<sup>nd</sup> June 2014 a report was taken to Cabinet member recommending the detailed design, consultation and implementation of a bus lane along the site frontage on Rotherham Road. This was approved and funding is in place and construction is likely to commence this financial year. A Highway Improvement Line along this part of A633 Rotherham Road was approved on 16<sup>th</sup> August 1983 and will have been declared on all Local Authority Searches within 200m of the line. The route is also identified on the UDP as being affected by a "Major Road Scheme".

Negotiations have taken place with the developers agent, and it has been recommended that the applicants plans take account of the committed bus lane. However the applicants agent states that the plans are not final and the consultation process still has to be undertaken, which is a time constraint which would impact on the applicant should they wish to implement any permission immediately. Therefore, the applicants agent requests that the application be considered as the road currently exists, and acknowledges that when the bus lane is implemented a new planning application would need to be submitted to amend the approved layout and landscaping plans to take account of the bus lane.

It is therefore considered that the proposed access arrangements are acceptable from a highway safety aspect, and that the proposed car parking numbers accord with the Councils Maximum parking standards. The site is considered to be relatively accessible on a main road close to bus stops.

It is therefore considered that the amended proposal complies with Policy T6 Location and Layout of Development, and policies contained within the NPPF.

#### **Conclusion**

It is considered that the proposal is acceptable in principle and the proposal complies with UDP policies EC3.1 and EC3.3 as well as policies within the NPPF. The proposal would result in an improved visual appearance of the site due to the replacement of an old building and the landscaping of the site, which would be beneficial to the locality and comply with UDP policy ENV3.1 and policies within the NPPF. The proposal is within a

flood zone, however the submitted FRA and supporting information show that the proposal is acceptable and complies with policies in the NPPG, the NPPF and the Rotherham Town Centre Flood Risk Toolkit that covers the site. The amended plans are acceptable to comply with UDP policy T6 and the site is considered accessible, and is considered to be in an appropriate location and compliant with policies in the NPPF. It is therefore recommended that planning permission be granted subject to conditions.

## **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)

- Proposed Site Layout -Drawing number 03-047 G06-100 Rev PL8 dated 22-01-14
- Proposed Elevations – Drawing Number 03-047 G08-100 Rev PL3 dated 14-06-13
- Proposed Floor Plans – Drawing Number 03-047 G07-100 Rev PL4 dated 22.1.14
- GA Sections – Drawing Number 03-047 G09-100 Rev PL2 dated 22-01-14
- Landscape General Arrangement – Drawing Number 459-001 Rev I dated 04-06-14
- Site Location Plan – Drawing Number 03-047 G01-100 Rev PL1 dated 02-07-13

Reason

To define the permission and for the avoidance of doubt.

03

The floor area for trade counter use shall not exceed 20% of the internal floor area of the building(s) hereby approved.

For the avoidance of doubt and to ensure that the development is compliant with policies within the NPPF.

## **Visual Appearance**

04

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

Reason

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

05

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

Reason

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

06

A bespoke knee rail along the boundary with Rotherham Road and The Gateway shall be provided. Details of the knee rail and its location shall be submitted to and approved in writing by the Local Planning Authority, and the approved details shall be implemented before the development is first brought into use.

Reason

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

07

No part of the land other than that occupied by buildings shall be used for the storage of goods, components, parts, waste materials or equipment without the prior written approval of the Local Planning Authority.

Reason

To prevent the land from becoming unsightly in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

08

Prior to the commencement of the cycle stores or the bin stores, details of the stores shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented on site.

Reason

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

## **Transportation**

09

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

Reason

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

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 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.

11

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

#### Reason

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

12

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

#### Reason

In order to promote sustainable transport choices.

13

The development shall not be commenced until details of the proposed access works in A633 Rotherham Road, indicated in draft form on plan reference G06-100 PL8 have been submitted to and approved by the LPA and the development shall not be brought into use until the approved details have been implemented.

#### Reason

In the interests of road safety.

14

Before the commencement of development, details of a bus shelter in Rotherham Road fronting the application site and associated works to QBC standards shall be submitted to and approved by the Council and the approved details shall be implemented prior to the development being brought into use.

In order to promote sustainable transport choices.

### **Flooding and Drainage**

15

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) March 2014/2031/FR/BJB

Consulting and surface water drainage assessment by Eastwood & Partners dated 24/04/14 and the following mitigation measures detailed within these documents:

1. Limiting the surface water run-off generated by the development so that it will reduce the run-off from the undeveloped site and decreases the risk of flooding off-site. A minimum of a 30% reduction in peak discharge must be achieved.
2. Finished floor levels are set no lower than 25.00m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to reduce the risk of flooding to the proposed development and future occupants.

16

Surface water draining from areas of hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, soakaway or surface water sewer. The interceptor(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the interceptor(s).

Reason

To reduce the risk of pollution to the water environment.

17

All downpipes carrying rain water from areas of roof shall be sealed at ground-level prior to the occupation of the development. The sealed construction shall thereafter be retained throughout the lifetime of the development.

Reason

To prevent the contamination of clean surface water run-off.

18

Inspection manholes shall be provided on all foul and surface water drainage runs such that discharges from individual units can be inspected/sampled if necessary. All manhole covers shall be marked to enable easy recognition. Foul will be marked in red. Surface water will be marked in blue. Direction of flow will also denoted. Where more than one discharge point is proposed, manholes will also be numbered accordingly to correspond with their respective discharge point.

Reason

To allow pollution incidents to be more readily traced.

19

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason

To prevent pollution of the water environment in accordance with UDP Policies ENV3.2 Minimising the Impact of Development and ENV3.7 Control of the Environment.

20

The site must be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water.

Reason

To prevent pollution of the water environment in accordance with UDP Policies ENV3.2 Minimising the Impact of Development and ENV3.7 Control of the Environment.

21

Prior to the commencement of any works on site, a settlement facility for the removal of suspended solids from surface water run-off during construction works shall be provided in accordance with details previously submitted to and approved in writing by the LPA. The approved scheme shall be retained throughout the construction period.

Reason

To prevent pollution of the water environment in accordance with UDP Policies ENV3.2 Minimising the Impact of Development and ENV3.7 Control of the Environment.

22

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason

To prevent pollution of the water environment in accordance with UDP Policies ENV3.2 Minimising the Impact of Development and ENV3.7 Control of the Environment.

23

No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved details.

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'.

24

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

Reason

To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal in accordance with UDP Policies ENV3.2 Minimising the Impact of Development and ENV3.7 Control of the Environment

### **Landscape and Trees**

25

Landscaping of the site as shown on the approved plan (Landscape General Arrangement drawing no. 459-001G or latest revision) 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 31st December of that year.

Reason

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

26

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

If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason

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

27

No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2 metre high barrier fence in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction and positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the

development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

#### Reason

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

28

The approved development shall be implemented in accordance with the approved details and recommendations within the submitted Arboricultural Method Statement by AWA Tree Consultants dated, June 2014 and, prior to the commencement of any development, further details will be submitted to the LPA for consideration and approval of the arrangements made to supervise any works around the trees and within their RPA's by a suitably qualified and experience Arboriculturist.

#### Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'

### **Contaminated Land**

29

Following demolition works and prior to the commencement of development details of further exploratory investigations to be undertaken across the site to fully characterise the presence of contamination, include testing for asbestos containing materials shall be submitted to and approved in writing by the Local Planning Authority. The report shall show the findings, results and subsequent risk assessment and shall be undertaken 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). The approved details shall be implemented in accordance with the recommendations within the 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.

30

Prior to the commencement of any remediation works on site, and subject to the results in the report in condition 29, a Remediation Method Statement shall be submitted to and approved in writing by the Local Authority. 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 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 Authority must be given two weeks written notification of commencement of the 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.

31

In all areas where made ground exists and elevated levels of contamination have been identified, a capping layer of 600mm of subsoil/topsoil will be required for all soft landscaping areas.

#### 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.

32

If subsoil's / topsoil's are required to be imported to site for remedial works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination. If materials are imported to site then the results of testing thereafter shall be presented to the Local Authority in the format of 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.

33

Subject to the findings of the report in condition 29, gas protection measures may need to be provided in the new building. If necessary details of the gas protection membranes to be used shall be submitted to and approved in writing to the Local Planning Authority prior to the commencement of the development. The approved gas protection measures shall be incorporated into the development.

#### 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.

34

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. 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.

35

Subject to the findings of the report in condition 29, prior to the commencement of the development details of the design sulphate classification and the corresponding aggressive chemical environment to be used in all made ground areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented 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.

36

Following completion of any required remedial/ground preparation works (including gas protection membranes) 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.

### **Informatives**

#### **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.environment-agency.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.



subject to various conditions and informatives and the signing of an agreement under Section 106 of the Town and Country Planning Act requiring the following obligations:

- (i) The provision of 14 affordable housing units.
- (ii) Details of the management and maintenance scheme for the proposed public open space areas to be provided on site.
- (iii) The dedication of approximately 0.4 hectares of land to the Treeton Junior and Infants School.
- (iv) The securing of £75,000 for the provision of car parking spaces free of the highway in Rother Crescent.

Subsequent to the granting of planning permission, a Deed of Variation to the Section 106 Agreement was signed incorporating an increase in affordable housing from 14 to 16 units, whilst changing the house size, tenure type and plot numbers.

An application for a non- material amendment to application RB2008/0528 was refused permission in 2010 (RB2010/0643).

Planning permission for the continuation of the development with variation of Condition 1 (development in accordance with the approved plans) imposed by RB2008/0528 was granted subject to conditions in 2010 (RB2010/1122).

Planning permission for the substitution of house type previously approved under RB2008/0528 on Plot 26 was granted permission in 2012 (RB2012/0581).

Planning permission for the substitution of house type previously approved under RB2008/0528 on Plot 31 was granted permission in 2012 (RB2012/0621).

Planning permission for the development with a further variation of Condition 1 (development in accordance with the approved plans) imposed by RB2010/1122 was granted permission in 2012 (RB2012/0619), subject to a S106 Agreement (tying the permission in with the original Agreement, as varied, relating to this overall site).

The proposed development falls within the description contained at paragraph 10b (Urban Development Projects) of Schedule 2 to the 2011 Environmental Impact Assessment Regulations and meets the criteria set out in column 2 of the table in that Schedule (the area of development exceeds 0.5 hectares). However, the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the Local Planning Authority has adopted the opinion that the development referred to above for which planning permission is sought is not EIA development as defined in the 2011 Regulations.

## **Proposal**

The applicant seeks permission to amend the plot types to 13 dwellings on site.

- Plots 41, 42 & 45 (previously Brunswick) have been substituted for Bramhall house type.
- Plots 43, 47, 48, 50, 51 & 54 (previously Bedworth) have been substituted for Banbury house type.

- Plots 46 & 53 (previously Newark) have been substituted for the Northwood house type.
- Plots 49 & 52 (previously Daresbury) have been substituted for the Davenham house type.

The changes primarily involve a redesign of the front bay windows from an octagon style to a square bay window.

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

The majority of the site is allocated as a residential development site (H45) on the adopted Unitary Development Plan, though a small section (approximately 0.12 hectares) is allocated for Community Facilities (Education) purposes. Whilst allocated as such this part forms part of an open field and is not within the curtilage of the adjacent Treeton Church of England School.

Unitary Development Plan:

ENV1.4 Land adjacent to the Green Belt  
 ENV2 Conserving the Environment  
 ENV 3.1 Development and the Environment  
 HG5 The Residential Environment

### **Other Material Considerations**

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

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

The 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 was advertised on site and in the local press and neighbouring residents notified. No letters of representation have been received.

### **Consultations**

Streetpride (Transportation and Highways Unit): No objections subject to previous conditions as relevant.

### **Appraisal**

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

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

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

The site of application is allocated for Residential purposes on the Unitary Development Plan and has planning permission for residential development, granted under applications RB2008/0583 as amended subsequently by RB2010/1122 & RB2012/0621. The principle of the development is therefore established and indeed much of the development has been built out. The requirements of the related S106 Agreement have been met in that the affordable housing units have been built out, the land dedicated to Treeton Junior and Infants School, and the commuted sum in respect of the parking spaces paid to the Council. It is considered that the management and maintenance of the open space area can be dealt with by condition. As such it is not considered necessary to tie the current application in with the original S106 agreement (as varied). In addition, the affordable housing units identified are not affected by the amendments set out in the current application.

The main issue for consideration is therefore the impact of the changes to the approved details on the character of the development and the amenities of future occupiers.

The proposed changes consist of amendments to 13 plots on site, which involves the replacement of octagonal bay windows with square bay windows to the front.

The amendments to the scheme not result in any significant adverse change to the design and layout of the site, and would have no greater impact on the character and appearance of the development proposed.

Additionally there would be no adverse effect on the residential amenities of existing or future occupiers by way of lack of private open space, overlooking or over shadowing, and no adverse impact on car parking provision within the locality. It is therefore considered that there would be no conflict with Policies ENV1.4 'Land adjacent to the Green Belt', ENV2 'Conserving the Environment', ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan, and advice in Paragraphs 56, 57 and 109 of the NPPF.

## **Conclusion**

The amendments to the approved scheme would not result in any significant adverse change to the development in terms of the design, scale and massing of the properties and no adverse effect on the residential amenities of the area or the character and appearance of the overall development. It is therefore recommended that permission be granted.

## **Conditions**

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

NOR-P -02 (2006) Rev B, JHN/971/500 Rev U, Ban-P-02 (2006) Rev B, BRM-P-03 (2006), DAV -P-02 (2006) Rev B), - Received 3 -04 -14

Reason

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

02

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), all dwellings with integral garages shall retain these garages for car parking for the lifetime of the development hereby approved.

Reason

To avoid excessive parking in the highway and to ensure the free and safe movement of traffic.

03

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'.

04

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

Reason

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

05

Before the development is brought into use, a Landscape scheme, showing location and types of landscape treatment shall be submitted for approval by the Local Planning Authority. The Landscape scheme should be prepared in accordance with RMBC landscape guidance document and shall be implemented in the next available planting



season and maintained to ensure healthy establishment. Any plants dying, removed or destroyed within five years of planting shall be replaced the following planting season.

Reason

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

06

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

Reason

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

07

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and 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'.

08

Within two months of the date of this decision a plan indicating the positions, design, materials and type of boundary treatment to be erected, including details of treatment to the front boundary with the highway, shall be submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be erected on a phased basis as the building works progress and relevant treatment implemented for the dwelling it serves is brought into use.

Reason

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

09

Within one month of the date of this permission a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority. The landscape management plan shall be carried out as approved.

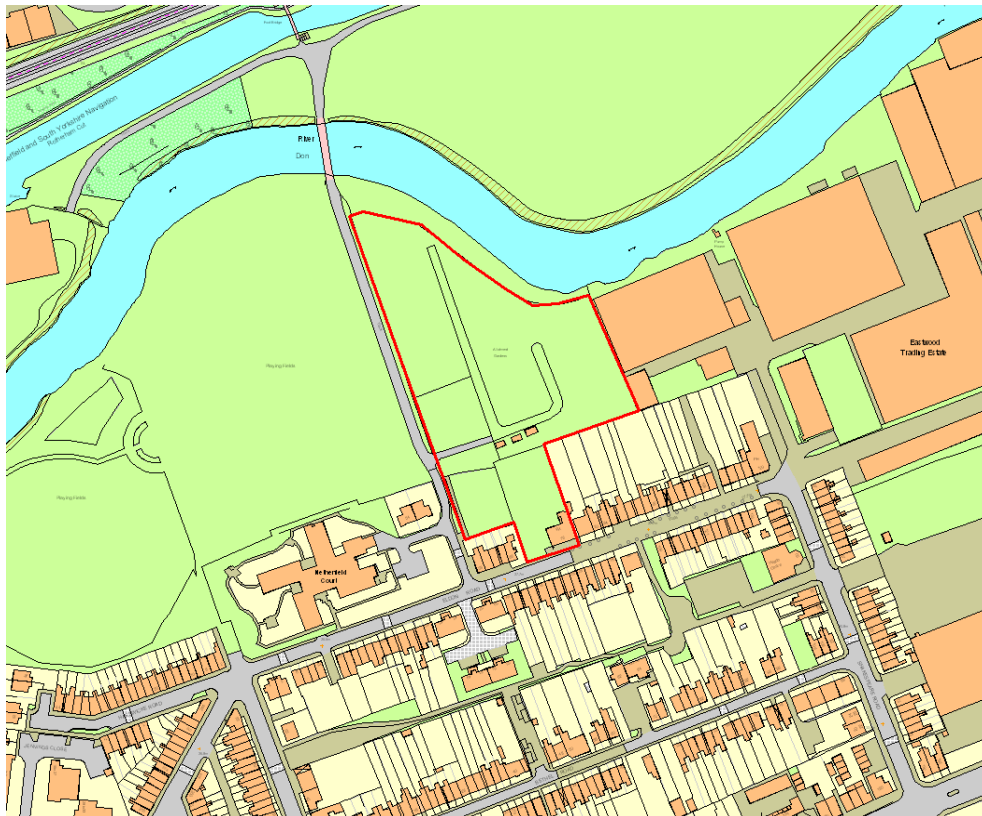
#### Reason

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

#### 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.

|                              |  |
|------------------------------|--|
| <b>Application Number</b>    | <b>RB2014/0469</b>   |
| <b>Proposal and Location</b> | Demolition of public house, formation of access and erection of three storey building (including basement) to form a new school at land at former Donfield Tavern, Eldon Road, Eastwood, S65 1RD |
| <b>Recommendation</b>        | Grant subject to conditions  |



### Site Description & Location

The site extends to some 1.27 hectares and is located in the Eastwood area of Rotherham. It consists currently of a derelict public house and its associated car park fronting Eldon Road and 33 allotment plots beyond, although only a minority of these are regularly maintained. Sporadic buildings associated with the allotments are also present on site.

The site is surrounded by residential areas to the south with industrial buildings to the east, a care home to the south west and playing fields to the west, which consist of two full size football pitches and further east is a cricket pitch, Multi-use Play Area (MUGA) and Children's' Play Area. The northern boundary is formed by the River Don with dense planting along its bank and immediately across the river is the canal and beyond this is the railway line and Parkgate Retail Park.

The site boundary consists mainly of a 2m high metal palisade fence around the allotments with a mature hedge and some mature trees on the allotment side. A track runs down the western boundary with a short access at the bottom of the allotments where a hard standing area is situated at the entrance to the allotments.

A small area of grassland adjacent to the public house and to the rear of No's 58 to 66 Eldon Road has some children's play equipment situated in the north eastern corner.

## **Background**

Various planning applications have been submitted and subsequently approved for extensions and alterations to the public house; however no applications have been made for the area which currently accommodates the allotments.

## **Environmental Impact Assessment**

The proposed development falls within the description contained at paragraph 10b of Schedule 2 to the 2011 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

Accordingly it is considered that the development is not EIA development as defined in the 2011 Regulations

## **Proposal**

This is a full application for the demolition of the existing Donfield Tavern public house and the erection of a new school which is proposed to be constructed with two upper floors over an open basement level, making the building three storeys in total.

It is proposed to accommodate the staff parking, areas for recreational activities and outdoor classrooms at basement level, accommodate the reception, offices, hall, kitchen and teaching areas at ground floor and further teaching areas and the library at first floor.

The building itself is located to the south side of the site, approximately 50m from the rear of properties on Eldon Road and will have an overall footprint of 1400sqm. The building will be rendered in white and has a two storey block to the east and a single storey block to the west, separated by a higher central entrance block. This central entrance block is to be predominantly built of dark blue brickwork and glazing, featuring orange cladding. This cladding will then be replicated on a smaller scale around the other two entrances, which are located in the two blocks to the east and west.

A hard surfaced playground is located immediately to the rear of the building with a grass playing field beyond. Formal landscaped areas are located to the front of the building alongside visitor parking bays and the main pedestrian entrance off Eldon Road.

A biomass plant room, storage silo and external plant are also proposed along the western boundary. This consists of a flat roof rectangular shaped brick built building with an external chimney, a single storage silo and external plant enclosed by a paladin or similar weldmesh fence and gates.

The main vehicular access for staff, deliveries and servicing is proposed via an unadopted access road adjacent No. 58 Eldon Road. It is proposed to widen this to 6m.

The entire site will be secured by a 2m high weldmesh fence with metal entrance fencing and electronic gates to the main entrance off Eldon Road.

The following supporting documents have been submitted with the application:

- Design and Access Statement concludes that the location of the proposed development has responded to the site characteristics whilst accepting the need to provide an important educational establishment which is desperately needed in the area to meet existing and current growing demands for educational places.
- Transport Statement concludes by stating that a review of local and national planning policies has been undertaken and it is shown that the proposed development satisfies the pertinent policies because it will be accessible by a range of travel modes. Its location within the residential area of Eastwood will help to reduce the need to travel to schools by car. Furthermore, it has been demonstrated that the school can be accessed safely by different travel modes, including servicing and emergency vehicles
- Flood Risk Assessment including Sequential and Exceptions Test provides a flood risk assessment and defines flood protection and flood mitigation requirements for proposed development. These recommendations include external ground levels, the use of semi permeable surfacing, replication of existing methods of natural dispersion and the location of the plant operation room to the ground floor. The sequential test goes on to discount available sites within the Flood Risk Toolkit area.
- Geo-environmental Report January and March 2014 confirms that beneath a capping of topsoil, made ground generally comprising gravel sized fragments of ash and clinker was present to depths of between approximately 0.3m and 2.0m. Underlying this material, clay, considered to represent a combination of alluvium and weathered Pennine Middle Coal measures, was revealed above extremely weak siltstone encountered at depths of approximately 2.5m to 3.5m. The report concludes by providing a number of objectives for remediation followed by a suggested strategy to be employed throughout the ground works and construction phases as well as proposals for soft landscaped areas.
- Land Contamination Survey Report recommends that prior to the provision of foundations for the new building, a limited number of window sampling boreholes, with associated geotechnical and chemical/Waste Acceptance Criteria testing should be undertaken. An interpretative report giving recommendations for foundations to the new build should also be procured from the information gained from the foregoing testing.
- Noise Impact Statement establishes the baseline noise levels at the proposed school in order to consider ventilation requirements / options and the potential noise impact of outdoor play areas at the proposed school with respect to the amenity of existing residential dwellings in the vicinity. The statement concludes by stating that the use of standard double glazing and natural ventilation is considered appropriate in this instance and the potential noise associated with the outdoor play area should be within acceptable levels.

- Extended Phase 1 Ecology Survey Report confirms that no protected species or species of conservation concern were recorded during the survey. Biodiversity Action Plan habitats on the development site are hedgerows and neutral grassland. These habitats should be retained wherever possible. Japanese Knotweed is present on the development site. It goes on to recommend that further surveys are undertaken in order to establish the impact of the proposed development on habitats and species on land off Eldon Road.
- Reptile Survey Report concludes that the site is confirmed as containing a medium population of Grass snake with evidence of previous breeding attempts on site. The site is also confirmed as having a small slow worm population also thought to be breeding via the presence of a gravid female. No impacts are predicted in respect of amphibians.
- Bat Survey Report assesses the potential for bats in the Donfield Tavern and confirms that the property exhibits low potential to support features which could be utilised by bats. No field sign evidence of bats was recorded during the survey and no bats were recorded emerging from the property. A small number of bat contacts were recorded during the activity survey, all emerging from the south. No impacts are predicted on bats through the demolition of the Donfield Tavern and no impacts are predicted on foraging grounds or commuting lines through the development of the adjacent allotment site.
- Arboricultural Report confirms that 12 trees were revealed as part of the survey work, none of which are protected by a TPO. All of the trees were generally found to be in fair condition. Three trees have been recommended for removal for arboricultural reasons and one group require pruning works for reasons of public safety and to enhance their long term health.

## **Development Plan Allocation and Policy**

The site is predominately allocated as Urban Green Space in the Unitary Development Plan; however the area of the site fronting Eldon Road is allocated for Residential purposes. The following policies are therefore relevant in the determination of this application:

HG1 'Existing Housing Areas'  
 ENV3 'Borough Landscape'  
 ENV5.1 'Allocated Urban Greenspace'  
 ENV3.1 'Development and the Environment'  
 ENV3.2 'Minimising the Impact of Development'  
 ENV3.7 'Control of Pollution'  
 CR1 'Community and Social Provision'  
 T6 'Location and Layout of Development'

## **Other Material Considerations**

Council's Parking Standards (June 2011).

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 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, press notice and individual letters to neighbouring properties. No comments have been received.

### **Consultations**

Streetpride (Transportation and Highways) concur with the conclusions of the submitted Transport Statement in that the proposed development will be accessible by a range of travel modes and that the sites forecast vehicle trip generation will not result in a material adverse impact in highway terms

Streetpride (Drainage) raise no objections to the proposed development.

Streetpride (Leisure and Green Spaces) acknowledges that the proposal will result in the loss of statutory allotments, however are satisfied that alternative provision is being sought at Ste Leonards Road and on Eldon Road Recreation Ground. Having regard to the loss of recreational green space, this is considered to be acceptable subject to provisions of a funded scheme of improvement to the adjacent green space.

Neighbourhoods (Environmental Health) have reviewed the Geo-Environmental Investigation and Land Contamination Survey Reports and confirm that further detailed intrusive site investigation is required to be within the proposed development and playing field areas and conditions to this effect are recommended.

Streetpride (Ecology) have reviewed the submitted ecological assessment and has conformed that the habitats present are evaluated as being of low ecological interest, however recommended that additional bat survey work was required prior to a decision being made. This work has now been submitted and no objections are raised subject to the imposition of conditions.

Streetpride (Landscape) have reviewed the landscape masterplan and acknowledge that additional work is required to achieve a detailed landscape scheme and therefore recommend that conditions are imposed which will require the submission of this work prior to the commencement of work on site.

The Environment Agency originally objected to the proposed development on the grounds that insufficient information relating to surface water management had been submitted and further information relating to the use of the basement area was required. Following the submission of this information their objection has been removed.

South Yorkshire Passenger Transport Executive welcome developments of this nature to be located in accessible locations with good connectivity to the local plan. The site has subsequently scored green through an SYPTE LUTI assessment as access to the core bus network can be achieved through the bus stops on Fitzwilliam Road. SYPTE has also looked at the Transport Statement methodology and confirms that it appears correct without any obvious cause for concern.

South Yorkshire Mining Advisory Service have reviewed the Geotechnical assessment which confirms that there are no mining risks. On that basis, it is recommended that the Coal Authority's standing advice is attached to any approval of planning permission.

The Canal & River Trust has no comments to make but wish to recommend that an informative be placed on the decision notice advising the applicant to make contact with the trust to ensure any necessary consents are obtained prior to commencement of work on site.

South Yorkshire Fire & Rescue Service have indicated that Access for appliances should be in accordance with Approved Document B, Volume 2, part B5, Section 16 and water supplies should be in accordance with Approved Document B, Volume 2, part B5 section 15.

South Yorkshire Police Architectural Liaison Officer has responded by stating that the development would benefit from being built to Secured by Design standards and provides a list of these.

Yorkshire Water confirm that observations from them are not required.

Sport England has confirmed that the site is not considered to form part of, or constitute a playing field and does not therefore wish to comment in detail on the design and layout of the new development.

South Yorkshire Archaeological Service: No comments received

## **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 be considered in the determination of this application are as follows:



- Principle of development.
- The layout and design of the development.
- Flood Risk/Drainage.
- Landscaping issues.
- Ecology / biodiversity issues.
- Impact on neighbouring amenity.
- Contaminated land issues.
- Impact on highway safety
- Demolition of Donfield Tavern.

Principle of development:

The site to which the application relates is located on land which is allocated as Urban Greenspace in the adopted UDP, with the exception of a small area fronting Eldon Road which is allocated for residential purposes. This land currently accommodates the derelict Donfield Tavern and its associated car park and as such has not been used for residential purposes for some considerable time. On this basis it is not considered that the loss of this land will be detrimental to the supply of land for housing purposes and as the proposal is for the construction of a new school, the proposed development will meet the wider needs of the community and will therefore be in accordance with the provisions of UDP Policy HG1 which requires alternative uses to be ancillary to the residential nature and function of the area.

Having regard to the Urban Greenspace allocation, UDP Policy ENV5.1 'Allocated Urban Greenspace' states that "*Development that results in the loss of Urban Greenspace as identified on the Proposals Map will only be permitted if:*

1. *alternative provision of equivalent community benefit and accessibility is made, or*
2. *it would enhance the local Urban Greenspace provision, and*
3. *it would conform with the requirements of Policy CR2.2, and*
4. *it does not conflict with other policies and proposals contained in the Plan in particular those relating to heritage interests.*

This area of Urban Greenspace forms part of a larger open area of land which runs alongside the River Don and comprises an allotment site and adjacent recreation ground, which together extend to approximately 6 hectares in total. The recreation ground has been defined as High Quality, High Value in the Council's Greenspace Audit due to the high population to which it serves, the size of the greenspace as a whole and the extent to which local people rely on it.

The application site currently accommodates a children's play area to the rear of the residential properties fronting Eldon Road and 33 allotment plots, approximately 11 of which are regularly used, the remaining area is overgrown and many parts are currently inaccessible.

To mitigate against the loss of the allotments, the Local Authority are in consultation to re-locate them and provide the same number of plots that would be lost. There is a requirement by the Secretary of State for the Department of Communities and Local Government to provide alternative provision within a  $\frac{3}{4}$  mile radius of the proposed site. This is a statutory requirement and will be secured under separate legislation.

The two proposed sites are on St. Leonards Road and within the recreation ground off Erskine Road which when combined will offer the same number of plots as the ones that will be lost as a result of the construction of the new school. In providing alternative allotment sites there will be no loss of allotment plots in the local area. However their relocation (onto land off Erskine Road) will result in an overall net loss of open green space in the Eastwood area which includes the loss of a second children's play area.

This loss will need to be mitigated against, however it is not currently clear what type of alternative provision will be required. This is partly because of continuing efforts to understand and address problems of anti-social behaviour on and around the recreation ground, and also because of the need to undertake further site surveys and consultation. In view of this, it is considered that the loss of recreational green space would be acceptable in principle, subject to the development and agreement with the Local Planning Authority, within a period to be determined, of a funded scheme of improvement to the green space within the area, which will be secured via a condition and will ensure that the proposals accord fully with the provisions of UDP Policy ENV5.1 'Allocated Urban Greenspace'.

Having regard to the need for a new school, UDP Policy CR1 'Community and Social Provision' states that "The Council will seek to enable the provision and retention of a range of community and social facilities through a variety of local authority, private sector and local community partnerships, wherever appropriate, which enhance the quality of life and serve the changing needs of the resident population, in particular, identified target groups including people with disabilities."

This is further emphasised in Paragraph 17 of the NPPF which notes that the planning system should (amongst others): "Take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs."

It further notes at Paragraph 72 that: "The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with schools promoters to identify and resolve key planning issues before applications are submitted."

A report has been submitted with the application which identifies that there is an unprecedented increase in the numbers of pupils needing to access schools places within the authority as a whole. As a consequence of this, it is necessary to increase the number of school places in the authority. There is particular pressure for school places within the central catchment areas of Rotherham that is Eastwood and St Ann's. A "snapshot" count taken on the 19<sup>th</sup> August 2013 showed there to be 62 children without a school place in the authority of which 25 were within the Eastwood and St Ann's catchment area.

Additionally Eastwood and St Ann's is an area of deprivation and with a high proportion of EU migrants. A study of the census data shows that the population of the area has grown by 7.8% compared to the Rotherham average of 3.7% from 2001 to 2011.

Further places are currently being created at Herringthorpe Infant and Junior Schools, which is able to be expanded by 20 pupils per year group. This will increase the published admission number in the area to 514, which is still below the number of births which is 527 in 2013/14 rising to 585 in 2014/15.

This information demonstrates that a new school is required in this area to alleviate the capacity issues of inadequate school places required for current teaching practices. Whilst the net loss of Urban Greenspace is regrettable, it is considered that the provision of a new school, together with a scheme to improve wider greenspace in the area will ensure that the proposals benefit the wider community and therefore accord with the provisions of UDP Policies CR1 'Community and Social Provision' and ENV5.1 'Allocated Urban Greenspace' as well as the advice contained within the NPPF.

#### The layout and design of the development:

UDP Policy ENV3.1 'Development and the Environment,' states: "Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property."

UDP Policy T8 'Access,' notes that: "The Council will seek to meet the access needs of people with mobility and sensory handicaps by promoting careful design and improved provision in both the refurbishment and development of buildings, public spaces, community facilities and transport networks through the development control process and in the course of public service delivery."

The NPPF notes at paragraph 17 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. These 12 principles are that planning (amongst others) should:

- always seek to secure high quality design..."

This is further emphasized in Paragraph 56 of the NPPF further which notes 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 additionally 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 Practice Guidance (NPPG) further notes that: "Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations," and that: "Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term."

With regard to layout considerations, the proposed site layout is informed by the site constraints which include its relationship with the River Don and requirement to retain

existing flood plain capacity which has resulted in the provision of an open basement ensuring any impact on the building itself from any potential flooding will be minimised. The building is then set over two further floors in order to provide the required floor area and adequate external play areas. The building itself, is located to the south side of the site, so as to allow the building to be accessed and serviced easily from Eldon Road, whilst keeping it as far from the River Don as practically possible. This positioning also maximises the amount of playing fields and playground for the 360 pupils it will be constructed to accommodate

Having regard to the scale of the development, the existing Donfield Tavern building is at the same level as Eldon Road. The site then slopes down towards its rear boundary, where there is a retaining wall with a retained height of approximately 1-1.5m. From this boundary, the site slopes gently down towards the river Don to the north of the site where there is a total change in level from Eldon Road to the northern boundary of approximately 4.5m. This land level change provides an opportunity for the construction of a three storey building (including the basement) with the overall height being approximately 1.8m lower than the apex of the roofs and around 1.6m higher than the eaves of the houses on Eldon Road ensuring that the building will not appear overdominant when viewed in the context of the street scene.

Turning to the external appearance, the building has been designed to have a two storey block to the east and a single storey block to the west, separated by a marginally higher central entrance block. This central entrance block is to be predominantly built of dark blue brickwork to form a dark mass block. From the block, facing Eldon Road, will be a glazed main entrance. The main entrance is to be emphasised by areas of cladding in an orange colour.

This orange will then be replicated on a smaller scale around the other two entrances, which feature in the two blocks to the east and west. The orange colour will then be picked out in window openings to tie the building together. Either side of the central block, the eastern and western blocks are proposed to be rendered with linear windows. Finally, the white render and dark grey windows and dark brickwork will continue around all facades, broken only by a number of orange windows or vents.

It is also proposed to erect a biomass plant room, storage silo and external plant along the western boundary. This consists of a flat roof rectangular shaped brick built building measuring 7.6m x 4.7m, having an overall height of 3.6m. A chimney will project an additional 2m above the parapet roof. The adjacent silo has a circular footprint with an overall height of 4.3m. This is attached to the external plant. The compound will then be secured by the erection of a weldmesh fence and gates. The location of this compound is required to be sited to the south of the building due to the flood risk issues associated with the land further north. It will not be visible from the main entrance into the site due to the presence of existing dwellings fronting Eldon Road and due to the land level changes and proposals to plant a number of trees immediately to the east, it is not considered that its location and scale would have a detrimental impact on the street scene, nor will it have a negative effect on the scheme as a whole.

Having regard to the above, it is considered that the proposed development is of an appropriate scale for the site and sufficient space is retained for outdoor recreation, parking, service yards and landscaping in terms of the appearance of the site. The scale and height of the proposed building, whilst three storeys is consistent with the height of the residential properties on Eldon Road due to land level changes allowing it to sit in an acceptable manner on this site.

There is an area of landscaping proposed to the front of the building, alongside an area of planting which will enhance the biodiversity on the site. This landscaping will assist in softening the appearance of the building both in terms of views of the development from outside the site but will also create a high quality environment within the development.

Overall it is considered that the proposed development is of a high quality and is of an appropriate scale and design which will comply with UDP Policy ENV3.1 and Paragraphs 17 and 56 of the NPPF.

### Floodrisk and Drainage

Paragraph 100 of the NPPF states that “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”

Having regard to the application site, it lies within a flood zone 3 where there is a high probability of flooding, that is 1 in 100 or greater annual probability of flooding and as the proposal is for a new school, Table 2 in The Technical Guidance to the NPPF identifies this as being ‘More Vulnerable’. As this is the case there is a requirement for the applicant to undertake a Sequential Test and Exceptions Test which will accompany the Flood Risk Assessment.

The Sequential Test aims to ensure that development does not take place in areas at high risk of flooding when appropriate areas of lower risk are reasonably available. In this regard the Applicant has considered the suitability of lower flood sites within the Rotherham Toolkit Area which comprised 5 other sites. These are listed below:

- Eastwood Depot, Eastwood Trading Estate;
- Peck House/Backer Electric, Eastwood Trading Estate;
- Clifton: A Community Arts school, Sports Field, Cranworth Road;
- Clifton Allotments, Middle Lane; and
- Herringthorpe Leisure Centre, Middle Lane South.

The Sequential Test concluded that none of these sites are suitable for this type of development. All of the sites are over 1 hectare, within the catchment area of Eastwood and within flood zones 1 and 2 that are readily available. The Applicant concludes there are no other sites suitable for this proposed development, either because the sites are located within established industrial estates, land prices are too high resulting in the site not being financially viable, the loss of sports pitches and sites being located outside of the catchment area for Eastwood. The proposed site is therefore considered to pass the sequential test.

As the proposal passes the Sequential Test, in that it has demonstrated that there are no other suitable sites for the development, it is necessary to consider whether it passes the Exceptions Test.

For the Exceptions Test to be passed, Paragraph 102 of the NPPF states:

- 1. It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a SFRA where one has been prepared; and*
- 2. a site specific FRA must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall*

*All elements of the test will have to be passed for development to be allocated or permitted.*

The applicant has undertaken an Exceptions Test and has demonstrated that the site has the following sustainability benefits:

- The site is located only 1100 metres from the central bus station and only 400 metres from Fitzwilliam Road which is a quality bus corridor;
- The proposed location of the school is only 1100 metres from the centre of Rotherham. The additional staff members and movement of parents and pupils close to the town centre will help sustain the vibrancy of the town centre and contribute to the 'town centre first' approach to development;
- The proposed new school will increase the employment opportunities in the local community and the borough as a whole. There will be approximately 29 full time members of staff and 11 part time staff employed by the school;
- The proposed new school will have hard and soft play areas and a playing field for use by its pupils. It also has an undercover games area, underneath the school which will allow pupils to exercise in inclement weather. The school hall will also be available for physical exercise. These facilities could also be used by the community outside school hours subject to agreement with the school leadership;
- The new school is intended to be both low energy and sustainable. In the first instance the building thermal envelope will be designed to be airtight and highly insulated to reduce the heat load of the building. It is then proposed to heat the building using a low carbon Biomass boiler;
- The building is designed to fit within the local context as a focal hub for the community as a whole. Its design is to be visually imposing, whilst still being considerate to the local buildings and context it sits within. Because of this, the building should fulfil its role as a school but also its aims and aspirations as a community beacon. It is this which makes the facility an asset and an enhancement to the area;
- A new school in the locality will aid community cohesion in this diverse area by becoming a focal point for the community, in both the use of its facilities and providing education for its children; and
- In providing a new school it will enhance the facilities and infrastructure of this deprived area. It will become a focal point for the local community and support the principle that each community is supported in Rotherham.

Having regard to demonstrating the safety of users from flooding, a Flood Risk Assessment has been prepared and submitted with the application, this has demonstrated that there will be no detrimental effect on flood risk elsewhere due either to surface water runoff from the development or from the operation of the existing flood plain.

The design of the school, with the car park at lower ground floor level and all the habitable rooms located over 1.5 metres above the 100 year + climate change flood level. All services, including those suspended beneath the ground floor will therefore be above the flood level. The car park and lower ground floor structure are designed to be flood resilient. A flood evacuation plan will also be prepared to ensure that in the event of those parts of the site which are at risk being flooded, the safe pedestrian access to the south is utilised.

The Environment Agency have been consulted on the application and based on the results of the above information and following the submission of additional information relating to the function of the basement have not raised any objections to the proposed development. This is echoed by the Council's drainage engineer who also raises no objections to the development of this site for a new school.

In conclusion, the Sequential Test, Exception Test and Flood Risk Assessment have demonstrated that the development passes all of the requirements, that is, wider sustainability benefits to the community that outweigh flood risk, there are no reasonable alternative sites and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. The proposed development is therefore considered to be appropriate for this site and in accordance with the guidance outlined in Paragraphs 100 and 102 of the NPPF as well as the information set out in the Technical Guidance to the NPPF.

#### Landscaping issues:

In respect of landscaping on the site, UDP Policy ENV3.1 'Development and the Environment,' as set out above is considered to be of relevance, as is Policy ENV3 'Borough Landscape,' which notes that: "The Council recognises the vital importance of maintaining and enhancing the landscape of the Borough, pursuing and supporting this objective through positive measures or initiatives and, when considering development or other proposals, taking full account of their effect on and contribution to the landscape, including water resources and environments."

The NPPF at paragraph 58 notes that planning decisions should aim to ensure that developments are visually attractive as a result of appropriate landscaping. This is further emphasized in Paragraph 109 which states that "The planning system should contribute to and enhance the natural and local environment by ..... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitments to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures ..."

In support of the application an Arboricultural Report has been submitted which provides a survey of existing trees on site. The report identifies a total of 12 items of vegetation on site (6 individual trees and 6 groups of trees) however none of these are protected by a Tree Preservation Order. Three trees have been recommended for removal for arboricultural reasons and one tree group requires pruning works for reasons of public safety and to enhance their long term health. The removal and pruning of these trees are not considered to have a detrimental impact on the visual character of the area and their loss will be mitigated against through the implementation of a new landscaping scheme required as part of the redevelopment of the site.

With regards to the proposed landscaping scheme, the applicants have submitted a landscaping planning layout plan which shows functional outdoor play areas, formal landscaped areas and native shrub and tree planting. The plan is intended to provide a general concept of how the site could be landscaped to provide an attractive environment, however a detailed landscaping plan would be required and subsequently approved prior to the commencement of work on site.

In brief it is proposed to have a formal landscaped frontage which will include tree and shrub planting to the rear of No's 28 to 66 Eldon Road, adjacent to the biomass heating plant and visitor parking area, nature shrub and tree planting with bug holes and bird feeding stations along the rear boundary of the No's 78 to 98 Eldon Road continuing along part of the eastern boundary. A hard surfaced playground is proposed directly adjacent to the rear elevation of the boundary with a grass playing field being provided beyond this and adjacent to the River Don. The site will be secured by a 2m high weld mesh anti climb boundary fence with the exception of the main entrance on Eldon Road, which will consist of artistic metal entrance fencing with electronic metal gates.

The Council's Landscape Architect has reviewed the proposals and recommends that additional information is required prior to the commencement of work on site. It is however suggested that the landscape buffer to the western boundary should extend as far as possible to maximise landscape/habitat connectivity and help with the screening of the play ground from the adjacent footpath/track. It is further considered that the use of native species to the riverside, east & western boundaries in keeping with riverside setting should be provided. Furthermore, and in an attempt to encourage the provision of an attractive public entrance area for the school, the use of appropriate ornamental species and attractive boundary treatments should be used.

Having regard to the above and subject to the imposition of a condition requiring the submission of a full landscaping scheme prior to the commencement of works on site, it is considered that the general landscape concept is acceptable and in accordance with UDP Policy ENV3.1 'Development and the Environment' and Paragraph 58 of the NPPF.

#### Ecology / biodiversity issues:

Policy ENV3.2 'Maintaining the Character and Quality of the Environment' states: "In considering any development or other proposals which would unavoidably damage an existing environmental interest, prior to determining a planning application, the Council will require the application to be supported by adequate survey, evaluation, recording, and where appropriate, details of renovation or repair of historic fabric and rescue or relocation of features or species of environmental interest should be reduced to a minimum and, where possible, the interest which is retained should be enhanced. In addition there must be adequate compensation for any significant losses through landscaping, habitat creation or other environmental enhancement."

Paragraph 118 of the NPPF seeks for planning proposals to provide opportunities to incorporate biodiversity in and around developments.

In support of the application, an ecological assessment has been submitted which considers the habitats currently present and the potential for protected and / or prioritised species to be present. The survey and impact assessment methodologies have been assessed by the Council's Ecologist who has confirmed that they are



appropriate and the results of the initial assessment are accepted. Following a request for additional ecological survey reports, a Bat and Reptile Survey have been submitted, the methodology and survey work have also been assessed and are accepted.

The habitats present are evaluated as being of low ecological interest, with semi-improved grassland and hedgerow habitats having some interest that should be retained and enhanced within the development.

Wet woodland, which is a national and local priority habitat, is present immediately outside the development site, i.e. on the bank of the River Don. Although the proposed development will not have a direct adverse impact on this habitat the layout appears to prevent access to the river bank, thus preventing appropriate management, which may be needed in order to manage flood risk down stream and to conserve the habitat value.

Japanese knotweed is also recorded within and on the boundary of the site. Japanese knotweed is listed on Schedule 9 of the Wildlife and Countryside Act, making it unlawful to allow this species to spread into the wild. The development proposals should take measures to eradicate this species from the site and from the immediate area, if this is within the same landholding, in order to prevent its continued spread into the site.

Having regard to the bat survey work, the public house which is proposed to be demolished has low potential for supporting roosting bat or nesting bird species. No bats were recorded emerging from the building and only low numbers of bats were recorded in the surrounding area. The recommendations given in the bat survey report are suitable and supported; the proposed development should however incorporate the retention of the river corridor vegetation and prevent any artificial lighting of this area. There is no ecological constraint to the proposed demolition of the existing building.

In terms of the reptile survey, no evidence of habitats or features likely to support protected amphibians were found on site; amphibian presence is not therefore considered a constraint to the proposed development. The site does however contain a high number of features attractive to reptile species throughout their life cycle. The proximity of the river corridor means the site is particularly attractive to grass snake. The survey work has established that the site is used for breeding by grass snake and slow worm, both of which species are protected from killing and injury under the provisions of the Wildlife and Countryside Act 1981. The presence of protected reptile species is considered to be a constraint to the proposed development and without adequate mitigation the development would be considered to be unlawful and contrary to national and local planning policy.

The reptile survey report contains recommendations for mitigation with the aim of removing the protected species from the likelihood of harm and of providing adequate alternate habitat to maintain the populations at a favourable status. The aim of the proposed mitigation is supported and its implementation would remove the current level of ecological constraint.

There is some uncertainty as to the suitability of the primary identified receptor site (where the reptiles could be moved to) and it will be necessary to survey the site to establish any existing use by reptile species, which may prevent successful translocation, and discuss the proposal with the land owner to ensure that the current use of the site (for deposition of canal dredgings by the Canal & River Trust) is not impaired. If the proposed receptor site is found to be unsuitable then an alternative site

will need to be identified and agreed in order for the necessary mitigation to be delivered.

The principle of the proposed mitigation strategy is supported but the agreement of the preferred receptor site is uncertain at this stage. In order to progress the proposed development within the desired timescales it is recommended that the final details be agreed via the imposition of a condition

In summary, the proposed development site contains some semi-natural habitats of moderate quality, neutral grassland and hedgerows, it is recommended that the development incorporates these habitat areas into the proposals and takes steps to enhance their extent and quality. Priority habitat immediately adjacent to the proposed development should be enhanced where possible and buffered within the development area. Invasive botanical species will need to be eradicated as part of the development and measures to mitigate for ecological impact and to enhance the biodiversity interest of the site will be required in order to demonstrate compliance with national and local planning policy.

Having regard to the above it is considered that the proposed development can be accommodated on this site without it having a detrimental impact on biodiversity. The proposal, subject to the imposition of a condition requiring a biodiversity enhancement scheme is therefore considered to fully accord with the provisions of UDP Policy ENV3.2 'Maintaining the Quality of the Environment' and paragraph 118 of the NPPF.

#### Impact on neighbouring amenity:

The NPPF notes at paragraph 17 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. These 12 principles are that planning (amongst others) should:

- always seek... a good standard of amenity for all existing and future occupants of land and buildings."

The site lies to the north of a number of residential properties fronting Eldon Road and to the east of Netherfield Court. The proposed new building will be located some 50m from the rear elevations of the properties on Eldon Road and whilst the new school is proposed to be 3 storeys in height, due to the land level changes the proposed new building will in fact be 1.8m lower than the ridge height of these two storey residential properties. This, together with the separation distance will reduce any potential for loss of residential amenity by virtue of it having an overbearing impact.

In terms of potential noise and disturbance issues arising from the proposed school on the existing occupiers, 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, or*

*(ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.*

*The Council will employ all its available powers and where appropriate will co-operate with and support other agencies, to seek a reduction in existing levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti. Where concerns arise, the Council will in appropriate cases monitor or require the monitoring of levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti, in furtherance of this Policy objective.”*

The NPPF notes at paragraph 123 that: *“Planning decisions should (amongst others) 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 from new development, including through the use of conditions.”*

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 submitted Noise Impact Assessment (NIA) identifies the key issues as being the potential noise impact of outdoor play areas in respect to the amenity of existing residential dwellings in the vicinity. The report concludes that as the outdoor play area is located to the north of the school building, in excess of 60m from the nearest residential property and the fact that the play area is unlikely to be used during evenings and weekends, the potential noise associated with outdoor play would be within acceptable levels.

The report goes on to establish baseline noise levels at the proposed school in order to consider ventilation requirements / options and concludes that a scheme of standard double glazing and natural ventilation is considered appropriate in this instance.

With the above in mind it is considered that the proposals generally accord with UDP Policy ENV3.7 ‘Control of Pollution,’ along with the advice in Paragraph 17 of the NPPF and the NPPG.

#### Contaminated land issues:

UDP Policy ENV4.4 ‘Contaminated Land,’ notes that: “Where land that may be contaminated as a result of previous uses, is proposed for development the Council will need to be satisfied that the applicant has:

- (i) undertaken investigations to establish the nature and extent of the contamination and its potential effects on the proposed development and/or the occupants thereof, and
- (ii) provided details of the measures proposed for the removal and/or treatment of the contamination which will not cause or increase pollution in the environment, particularly to watercourses and ground-water resources. Where permission is granted, such measures will be imposed as planning conditions to be implemented prior to commencement of development or within a timescale agreed with the Council.”

The NPPF notes at paragraph 120 that: “Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

The NPPF further advises at paragraph 121 that; “Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as ...pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
- adequate site investigation information, prepared by a competent person, is presented.”

In assessing the submitted Phase 1 Geo-Environment Report, the Council’s Contaminated Land (Development Officer) notes that given the current/historical use of the application site and adjacent sites, basic intrusive investigations were undertaken to obtain an understanding of potential geo-technical and geo-environmental constraints at the site. Samples of soil were therefore obtained from within the proposed development footprint and playing field areas and were submitted for chemical analysis at an accredited laboratory. The results of testing confirmed that soils at the site are affected by contaminants comprising of polyaromatic hydrocarbons, total petroleum hydrocarbons, lead and arsenic.

A sample of soil was also collected from the playing field situated on the adjacent western boundary of the site. The results of testing revealed that little contamination was evident.

The results of testing have indicated that made ground at the application site is affected by variable levels of contamination. However, the site and the adjacent playing field site have not been fully tested in terms of contamination that may exist.

In conclusion it is considered that further detailed intrusive site investigation is required to be undertaken to quantify the presence, depth and concentration of contaminants within the proposed development and playing field areas which can be secured by the imposition of conditions. Subject to the submission of this information and associated remediation, if required, it is considered that the proposed development fully accords with the provisions of UDP Policy ENV4.4 ‘Contaminated Land’ and paragraphs 120 and 121 of the NPPF.

### Impact on highway safety:

UDP Policy T6 'Location and Layout of Development,' states: "In considering the location of new development, the Council will have regard to the increasing desirability of reducing travel demand by ensuring that (amongst others):

- (i) land-uses are consolidated within existing commercial centres and settlement patterns which are already well served by transport infrastructure,
- (ii) major trip generating land-uses, such as ...retail..., are located in close proximity to public transport interchanges and service corridors,
- (v) a range of services and facilities are available in villages and local centres with safe and convenient access for pedestrians, cyclists and people with disabilities.

In addition, the detailed layout of development should have regard to accessibility by private car, public transport, service vehicles, pedestrians and cyclists and people with disabilities."

The Council's Adopted Car Parking Standards (June 2011) indicates that the maximum car parking spaces for a D1 use class is 1 space per 2 staff + 1 space per 15 students plus accessible parking.

The NPPF notes at paragraph 32 that: "All developments that generate significant amounts of movement should be supported by a...Transport Assessment and...decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure.
- safe and suitable access to the site can be achieved for all people and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

Paragraph 34 goes on to state that: "Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

Paragraph 36 further notes that: "All developments which generate significant amounts of movement should be required to provide a Travel Plan."

The application has been accompanied by a Transport Statement which considers the traffic and transportation impacts of the proposed development in line with current local policies and national guidance relating to transport and access.

The Statement concludes that the site is in an accessible location within the Eastwood residential area, which will encourage pupils to travel to the school by sustainable

modes, especially walking. It is also accessible by other sustainable modes including cycling and public transport. The potential traffic impact of the development has been forecast and it has been shown that the new school will not generate a material increase in traffic on the local highway network or within the two Air Quality Management Area's on Fitzwilliam Road. Indeed, it has been demonstrated that the proposals should result in people travelling shorter distances (compared to potential travel distances to existing schools) and therefore the new school should encourage a reduction in trips by car.

The Council's Transportation Unit have reviewed the Statement and concur with its conclusions that the proposed development will be accessible by a range of travel modes and that the sites forecast vehicle trip generation will not result in a material adverse impact in highway terms. This view is also shared by the South Yorkshire Transport Executive who state that the modal split assumptions and the associated trip generation is in line with other applications of this nature.

Mode share of pupils to other local schools has been used as a guide to likely mode shares for the proposed school. This indicates that the majority of pupils are expected to walk to the new school (some 88%) with some 9.5% travelling by car.

A total of 42 No. parking spaces are proposed of which 5 No. will be for disabled users. Covered cycle and scooter parking will also be provided. These numbers are considered appropriate and in accordance with the Council's adopted car parking standards. Additionally, the site is considered to have good pedestrian links to the surrounding residential area which is subject to a 20 mph speed limit and is traffic calmed. There are signal controlled pedestrian crossing facilities at Fitzwilliam Road where there are frequent bus services, however a School Travel Plan is recommended.

Turning to the site layout, a one way traffic system is proposed which involves widening the unadopted access road to 6m adjacent No. 58 Eldon Road. Visibility in the westerly direction at this junction is currently restricted by an existing boundary fence fronting an area of land which is outside the application site boundary but within the applicant's control. It is therefore considered that this should be conditioned to ensure that the fence is re-aligned to provide an adequate visibility splay.

In view of the above, it is considered that the Transportation Statement submitted in support of the application is acceptable and that the proposed development will represent sustainable development with no detrimental impact upon highway safety. On this basis and subject to the imposition of conditions, the development is considered to accord with the provisions of UDP Policy T6 'Location and Layout of Development' and Paragraphs 32, 34 and 36 of the NPPF

#### Demolition of Donfield Tavern:

The proposals require the demolition of the Donfield Tavern prior to the commencement of any remediation/construction works on site as this will provide the main access/egress to construction traffic.

The applicant has provided information relating to its demolition and have confirmed that it will be done by mechanical means (360 degree excavator). The ground will then be put back to form the soft landscaping and access driveway for the school. No

crushing will take place on site and all material resulting from the demolition will be removed from site.

Bearing in mind the location of the building and accessibility of the site, it is considered that the method of demolition is appropriate in this instance and will not give rise to any environmental impacts.

### Conclusion:

In conclusion, it is considered that the loss of urban greenspace has been justified in this case by other material considerations and that the re-development of this land for a school will meet the community needs of the area.

Issues such as drainage / flooding, biodiversity and land contamination matters can be suitably addressed and mitigated through the imposition of the recommended conditions and it is not considered that the scheme as submitted would adversely affect the amenities of adjacent dwellings, and neither would it be impacted upon by external noise related issues.

Overall the proposed development is considered to be in accordance with relevant UDP Policies and the general guidance within the NPPF and the recently issued PPG and it is recommended that planning permission be granted subject to the recommended conditions.

### Conditions

#### **General**

#### **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)

- Proposed Site Plan; Dwg No. 712/111/0001 – AR060
- External Works Plan; Dwg No. 712/111/001 – AR050
- Elevations; Dwg No. 712/111/001 – AR300
- Basement Plan; Dwg No. 712/111/001 – AR001
- Ground Floor Plan; Dwg No. 712/111/001 – AR101
- First Floor Plan; Dwg No. 712/111/001 – AR201
- Roof Plan; Dwg No. 712/111/001 – AR250
- Site Section; Dwg No. 712/111/001 – AR065
- Biomass and Plant Room; Dwg No. 712/111/001 – AR610
- Landscape Planning Layout; Dwg No. L4921/100

#### Reason

To define the permission and for the avoidance of doubt.

#### **03**

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

#### Reason

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

04

Prior to the commencement of works on site a scheme detailing improvements to the green space within the Eastwood area shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details within a timescale agreed, in writing, by the Local Planning Authority.

#### Reason

To mitigate against the loss of Urban Greenspace, in accordance with the provisions of UDP Policy ENV5.1 'Allocated Urban Greenspace'.

### **Flood Risk**

04

The development shall be carried out in accordance with the submitted flood risk assessment and the following mitigation measures it details:

1. Limiting the surface water run-off generated by the development so that it will reduce the run-off from the existing site and decreases the risk of flooding off-site. The surface water discharge must be limited to 5 l/s/ha as the site is classed as greenfield. The drainage scheme must be able to contain up to the 1 in 30yr storm and not flood adjacent land/property up to the 1 in 100yr storm plus an allowance for climate change.
2. Finished floor levels are set no lower than 24.80m above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

#### Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

### **Transportation**

05

The development shall not be brought into use until a sight line 2.4m x 25m (20 mph) has been provided in the westerly direction at the proposed egress onto Eldon Road.



The area denoted by the sight line shall be cleared and remain clear of all obstructions to visibility in excess of 900mm in height measured above the nearside road channel.

Reason

In the interests of road safety.

06

The development shall not be brought into use until the un-named access adjacent No. 58 Eldon Road has been increased in width to 6m and a replacement footway provided as indicated on the submitted plan.

Reason

In the interests of road safety.

07

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

08

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

Reason

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

09

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

Reason

In order to promote sustainable transport choices.

10

Before the development is brought into use details of “School” signs in nearby streets shall be submitted to and approved in writing by the Local Planning Authority and the approved signs, which shall comply with the Traffic Signs Regulations and General Directions Manual, shall be erected before the school is occupied.

Reason

In the interests of road safety.

11

Before the development is brought into use “zig-zag” road markings, reinforced by a Traffic Regulation Order, shall be provided in Eldon Road fronting the proposed pedestrian access, in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of road safety.

## **Landscape**

12

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

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

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

Reason

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

13

Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of

requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

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

14

Before the development is brought into use, full details of the extent and design of the proposed boundary treatments, including the Artistic fencing/ railings to the Public Entrance Area shall be submitted to and approved in writing by the Local Planning Authority and shall be installed in accordance with the approved details and prior to the occupation of the school.

Reason

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

15

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

Reason

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

16

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 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations This shall be positioned in accordance with \*details as shown on the attached plan / details to be submitted to and approved by the Local Planning Authority\*. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

\*delete as appropriate

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 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the

Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

## **Ecology**

17

Prior to the commencement of development 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

To ensure that biodiversity enhancements are provided in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

18

Prior to the commencement of development a reptile mitigation strategy, including a schedule for implementation, shall be submitted to and approved by the Local Planning Authority. The strategy should enable delivery of the mitigation recommendations in Section 12 and should include all measures given in the Method Statement section of the 'Estrada Ecology Reptile Survey Report' (May 2014). The strategy shall thereafter be implemented in accordance with the agreed statement before the development is commenced.

Reason

To ensure that biodiversity enhancements are provided in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

## **Land Contamination**

19

Prior to the commencement of development an intrusive investigation and subsequent risk assessment, 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) shall be undertaken by competent persons and a written report of the findings shall be submitted to the Local Planning Authority for consideration. Subject to the findings of this report a Remediation Method Statement shall be submitted and approved in writing by the Local Authority prior to any remediation commencing on site. 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.

20

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 the 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.

21

Within 1 month following completion of any required remedial/ground preparation works, a Verification Report shall be submitted to the Local Planning Authority. 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.

22

If subsoil's / topsoil's are required to be imported to site for remedial works, gardens or soft landscaping areas, these soils shall be tested at a rate and frequency to be agreed in writing by the Local Authority to ensure they are free from contamination prior to their deposit 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.

## **Informatives**

01

The applicant/developer is advised to contact Alan Daines (0113 200 5713) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

02

Environment Agency

Any ground raising in flood zone 3 must be compensated for elsewhere on the site to prevent an increase in flood risk to the surrounding area. In addition it is paramount that the Flood Evacuation Plan for the development includes measures to de-mount equipment, fences etc so floodwater can enter the basement

03

The Environment Agency do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. The Technical Guide to the National Planning Policy Framework (paragraph 9) states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

#### 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.

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2014/0489</b>  |
| <b>Proposal and Location</b> | Application to vary Condition 03 (terms of temporary permission) imposed by RB2011/1147 (erection of 2 No. temporary wind monitoring masts) at Penny Hill Wind Farm, Penny Hill Lane, Ulley |
| <b>Recommendation</b>        | Grant subject to conditions   |



### Site Description & Location

The site of application is an isolated location in rural countryside, approximately 1 km to the south east of Ulley village. To the north and south are existing radio masts, to the east is a high capacity overhead electricity line and the M1 Motorway, and approximately 550m to the south west is Spring Wood. The site now contains 6 large scale commercial wind turbines.

### Background

Temporary permission for an anemometer mast nearby was granted in 2008 (RB2008/0607).

Planning permission for 6 turbines and the permanent retention of the 80m high anemometer mast (the Penny Hill Wind Farm application) was granted permission in 2010 (RB2009/0824).

RB2011/1147 - Erection of 2 No. temporary wind monitoring masts - GRANTED CONDITIONALLY on 27/09/11. Condition 3 of the permission states:

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. The applicant shall notify the Local Planning Authority of the date of the installation of the first of the masts within seven days of its installation on site and both masts shall be wholly removed within three years from the date of installation and the site restored in a manner to be agreed with the Local Planning Authority (unless further permission be granted by the Local Planning Authority prior to the end of that period).

One of the temporary masts was located on the site of proposed turbine 4 and was removed once this turbine was erected.

## **Proposal**

The application is for the retention of the one remaining wind monitoring masts approved under RB2011/1147. The manufacturers of wind turbines provide warranties in respect of the turbines' power generation relative to wind speed. Now turbine 4 has been constructed ongoing monitoring information from the retained mast allows the wind speeds in relation to the warranty on all existing six wind turbines to be checked. The mast is currently in position and approximately 0.6m wide and 80m high and supported by guy wires. The applicant has indicated that the mast is required on site until January 2016.

## **Development Plan Allocation and Policy**

ENV1 Green Belt  
ENV 1.2 Development in Areas of High Landscape Value  
ENV3 Borough Landscape  
ENV 3.2 Minimizing the Impact of Development  
ENV3.7 Control of Pollution  
UTL 3.4 Renewable Energy

## **Other Material Considerations**

Planning Practice Guidance.

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 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 was advertised on site and in the press as a departure from the Unitary Development Plan. One letter of objection has been received raising the following concerns:

- The developer has a "permanent" mast on the top of the hill for the purposes of wind monitoring and the retention of the monitoring mast is not required.
- The applicant has not informed the liaison meeting of the proposal.

## **Consultations**

Streetpride (Transportation & Highways): No objections

Neighbourhoods (Environmental Health): Envisage no significant loss of amenity by virtue of noise, air quality or land pollution impact.

## **Appraisal**

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

- (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 development is a departure from the Unitary Development Plan and consequently inappropriate development, and consideration has to be given as to whether there are any very special circumstances to overcome the harm caused by the inappropriate development, and any other harm. The main considerations are therefore:

- (i) The impact of the proposals on the openness and visual appearance of the Green Belt.
- (ii) Whether there are any very special circumstances to overcome the harm caused by the inappropriate development, and any other harm.

(i) The impact of the proposals on the openness and visual appearance of the Green Belt.

With regard to the effect on visual amenity and the character of the landscape, the proposal is to retain one 80m high latticework construction, approximately 0.6m wide, secured by guy ropes. The mast is only required until January 2016.

The proposal is inappropriate and thus by definition harmful to the Green Belt. The proposal impacts upon one purpose for establishing Green Belts; that of "assisting in safeguarding the countryside from encroachment". It also impacts upon the openness and visual amenity of the Green Belt, which the NPPF seeks to protect.

The 80m high mast is readily visible, albeit against a backdrop of 6 large scale turbines and is therefore considered to harm the openness and character of the Green Belt.

(ii) Whether there are any very special circumstances to overcome the harm caused by the inappropriate development, and any other harm.

Paragraph 17 of the NPPF states that Planning Should: 'Support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)'.

Paragraph 91 of the NPPF states that: 'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources'.

The overall National Planning Policy context in relation to wind turbines, as outlined above, is strongly supportive of the principle of wind turbines and the wider benefits of deploying renewable energy technologies in tackling climate change, subject to a number of considerations.

Furthermore the European Community Directive 2009 requires that 15% of the UK's total energy use should be supplied by renewables by 2020. The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

The latest Policy Briefing from the Sustainable Development Commission reinforces this view, indicating that wind generation is a key technology in achieving the 2010 target of 10% of UK energy generation coming from renewable resources.

In this instance the mast is a relatively light weight structure set against the backdrop of 6 large scale wind turbines. Furthermore the mast is only required until January 2016 and essential for the running of the wind farm until that date. The mast is required to check wind speeds for a temporary period along with the permanent anemometer mast in order that the effectiveness and warranty of the turbines can be monitored. As such very special circumstances are considered to exist in terms of the renewable energy benefits to justify the inappropriate nature of the development and any temporary harm to the openness of the Green Belt.

## **Conclusion**

Although the development represents a departure from both national and local Green Belt policy, it is considered that the need to produce energy from renewable carbon free sources, the provision of which is encouraged in national and local policy, constitutes very special circumstances to clearly outweigh the harm caused by inappropriate development and any harm to the openness of the Green Belt. The mast is only required for a temporary period to verify the warranted performance of the turbines and to ensure that the amount of electricity generated at the site is maximised.

## **Conditions**

**1.**

The mast shall be wholly removed from site by January 1<sup>st</sup> 2016 and the site restored in a manner to be agreed with the Local Planning Authority (unless a further permission is granted by the Local Planning Authority prior to the end of that period).

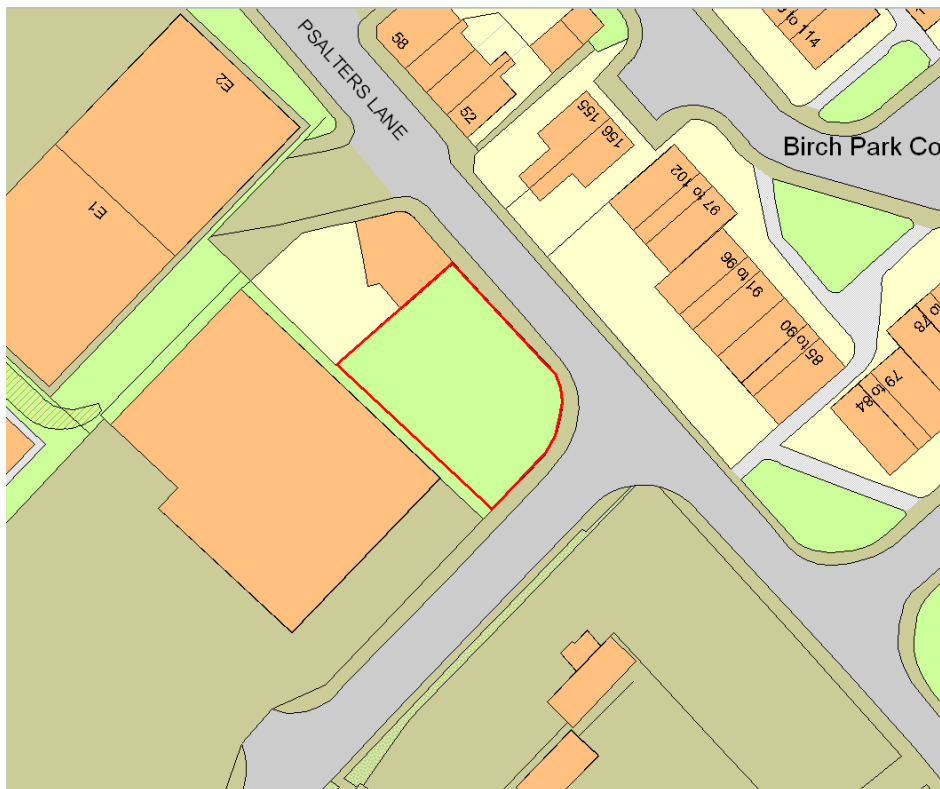
Reason

In order to comply with the requirements of the Town and Country Planning Act 1990 and as the site is within the Green Belt and no justification has been provided to retain the 80m mast on a permanent basis in this location.

## **POSITIVE AND PROACTIVE STATEMENT**

Whilst the applicant did not enter into any pre application discussions with the Local Planning Authority, the proposals were in accordance with the principles of the National Planning Policy Framework and did not require any alterations or modification.

|                              |  |
|------------------------------|--|
| <b>Application Number</b>    | <b>RB2014/0495</b>   |
| <b>Proposal and Location</b> | Erection of three-storey building comprising 11 no. apartments with basement parking and formation of means of access at land at DSR Demolition Ltd, Psalters Lane, Holmes, S61 1DL for DSR Demolition Ltd |
| <b>Recommendation</b>        | Grant subject to conditions  |



**Site Description & Location**

The application site is located within the Holmes area of the Borough which is approximately 1km west of the town centre. The eastern half of Holmes is mainly residential with some community facilities while the western part of Holmes is predominantly industrial in nature.

Psalters Lane which runs south off the busy Meadowbank Road splits the two halves of Holmes. To the eastern side of Psalters Lane there is a large residential estate and to the western side there is an Industrial estate.

The application site is located on the corner of Psalters Lane and Harrison Street and was previously used as a car park to the adjacent Turners Arms Public House, but since the former Public House was converted to an office and 4 apartments the site has become overgrown.

The site comprises an area of approximately 595 sq. metres in area.

The application site and the site of the former Turners Arms Public House is separated by a masonry wall. The site is enclosed by a green paladin fence and currently has

some large industrial containers sited on it. The site slopes from north-west to south-east.

To the south-west of the site are industrial units with one immediately to the rear of the site. On the opposite side of Psalters Lane are residential properties.

## **Background**

The site has been subject of two previous planning applications:

RB2011/0152 – Erection of 2 no. steel segmental arch buildings for use as workshops and storage – Refused and dismissed at appeal

RB2012/1157 – Erection of three-storey building to form 14 no. apartments – Refused.

The previous application was refused for the following reasons:

*01*

*The Council considers that the proposed development would result in the loss of land identified for industrial and business use and the loss of employment opportunities. The proposed residential development is not considered to be ancillary to the primary industrial and business use of the area. Furthermore, the proposal would not be compatible with the adjacent existing land uses given the industrial nature of the adjacent site. In addition, the proposal would have an adverse effect on the residential amenity of future occupiers of the proposed development due to its close proximity to an industrial unit. Accordingly the proposed development would be in direct conflict with the requirements of the National Planning Policy Framework and policies EC3.3 'Other Development within Industrial and Business Areas' and HG5 'The Residential Environment' of the adopted Unitary Development Plan.*

*02*

*The Council is of the opinion that the proposed development would represent an unacceptable form of overdevelopment of the site, with inadequate internal accommodation and private amenity space, to the detriment of future occupiers. As such the proposed development is contrary to the National Planning Policy Framework and the South Yorkshire Residential Design Guide.*

*03*

*The Council consider that the Noise Assessment carried out by Haworth Acoustics, dated August 2009 is out of date and provides insufficient information, and as such the potential impact of the neighbouring industrial uses on the amenity of future residents of the development cannot be fully assessed. As such the proposal is considered to be contrary to the requirements of the National Planning Policy Framework.*

## **Proposal**

This is a full planning application for the erection of a three-storey building to form 11 apartments with 5 two bedroom and 6 one bedroom flats, with parking in a basement.

The proposed building would be laid out around a communal courtyard / terrace and a smaller, private garden terrace which will provide private external space for the occupants. Two of the apartments at the southern end of the site are to be provided

with walk out balconies, while four apartments facing Psalters Lane would have Juliet Balcony features. The communal area would be approximately 178sq. metres.

The proposed communal courtyard will include hard and soft landscaping.

The building proposed takes some architectural features from the neighbouring former Turners Arms Public House and is proposed to be set flush against the rear of the footpath on both Psalters Lane and Harrison Street.

The proposed building is three-storey high, with a maximum height of 8 metres near the boundary with the adjacent industrial building on Harrison Street, with the lowest height of 7.1 metres adjacent the side elevation of the former Turners Arms Public House. The building steps down the hill at the abutment with the existing building and the roofline of the building steps down at the main stairwell to provide visual relief to the frontage and to echo the treatment of the apartment across the road. The roofline then steps down to a flat roof section at the Psalters Lane / Harrison Street corner and then raises to a pitched roof on the part facing Harrison Street.

The building is proposed to be constructed in red-brick with soldier courses and heads.

The main pedestrian entrance to the proposed building will be from Psalters Lane into the main stairwell.

The semi-basement car park which will have spaces for 11 cars and 14 bikes will be reached via a gated entrance from Harrison Street.

In support of the application the following documents have been submitted:

#### Design and Access Statement

The Design and Access Statement submitted contains 5 main sections, including an assessment and evaluation of the scheme and information on its design, access and sustainability statement.

#### Flood Risk Assessment

The report states:

- The buildings are not located within 20 metres of a watercourse
- The site is not within a Flood Zone.

#### Geo-technical and Geo-environmental Report

The report details that the Two Foot and Abdy coal seams are expected to underlie the site at shallow depth and have potentially been worked. The document concludes that before more definite geotechnical and contamination information can be given, an intrusive investigation will be required.

#### Coal Mining Risk Assessment

It states that there are no known coal mine entries within, or within 20 metres of, the boundary of the property and there is no evidence of any damage arising due to

geological faults or other lines of weakness. The property does not lie within 200 metres of the boundary of an opencast site from which coal is being removed by opencast methods. The Coal Authority has not received a damage notice or claim for the property since January 1984 and there is no record of mine gas emissions requiring action by the Coal Authority within the boundary of the property.

## Noise Assessment

An assessment was carried out by S.D. Garritt Ltd on 7<sup>th</sup> and 9<sup>th</sup> August 2013 at the site. The report submitted relates to the application for the conversion of the former public house to office at ground floor and residential above.

The report summarises the following:

- The outdoor sound levels at the site were 69 dB LAeq during the daytime and 45 dB LAeq at night.
- The dominant source of outdoor sound affecting the site during the day is the dust extraction system at the adjacent site, the rest of the time its road traffic.
- Usual acceptance on interior sound levels within dwellings can be achieved by fitting reinforced double glazing to living rooms and bedrooms in the elevations on to Psalters Lane and Harrison Street.
- Background ventilation may be achieved within the interior sound requirements by using acoustic trickle vents to bedrooms with a direct view of Psalters Lane and trickle vents to all other windows.
- Mitigation measures are proposed to reduce noise from the dust extraction plant reaching the outdoor private space within the development. With the mitigation measures in place it is predicted that the outdoor sound level in the private space will be 42 dB LAeq when the dust extractor is operating fully. This value is well below (ie. better than) the 50-55 dB LAeq recommendation of the World Health Organisation for “outdoor living areas” and it is 10 dBA below the daytime background sound level measured in the absence of dust extractor noise.

## Building for Life Assessment

The developer scored the proposal at 12.5 out of 20 on the Building for Life criteria.

## Development Plan Allocation and Policy

The application site is allocated for industrial and business use within the Council’s adopted Unitary Development Plan (UDP).

The application has been assessed against the following UDP policies:

EC3.3 ‘Other Development within Industrial and Business Areas’

HG4.3 ‘Windfall Sites’

HG4.8 ‘Flats, Bed-siting Rooms and Houses in Multiple Occupation’

HG5 ‘The Residential Environment’

ENV3.1 ‘Development and the Environment’

T6 ‘Location and Layout of Development’

## Other Material Considerations

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

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

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

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.

Supplementary Planning Guidance (SPG) ‘Housing Guidance 3: Residential infill plots’ is also relevant in the assessment of this application.

In addition, guidance detailed within the South Yorkshire Residential Design Guide (SYRDG) has also been taken into account in the determination of this application, as has guidance detailed within the National Planning Practice Guidance ‘Noise’ section.

## **Publicity**

The application has been advertised by way of a press and site notice, while occupiers of neighbouring businesses and residential properties and have been notified in writing. No comments have been received.

## **Consultations**

Streetpride (Transportation and Highways): Have no objections subject to conditions.

Streetpride (Ecologist): Have no objections subject to a recommended condition.

Yorkshire Water: Have no objections subject to a condition and information being passed to the applicant via informatives.

Neighbourhoods (Environmental Health): Are satisfied with the contents of the submitted noise report and have no objections.

Neighbourhoods (Urban Design): Have stated the 1 bed apartments just fall short of our minimum internal space standards (by 1-2 sq. metres) although the 2 bed apartments exceed them. The building is an efficient use of space and the inclusion of basement parking, including ample number of bike cycle spaces, is commendable. Window sizes and numbers allow for good levels of natural light in most rooms.

Neighbourhoods (Land contamination): Has no objections subject to conditions.



Education (Schools): Have no comments to make.

The Coal Authority: Have no objections subject to a condition being implemented.

## **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 considerations in the determination of the application are considered to be:

- i) the principle of the proposed development;
- ii) the design of the proposed building and its impact on the visual amenity of the streetscene;
- iii) the number of units proposed and its density;
- iv) the impact of the development on the amenity of neighbouring residents;
- v) the impact of the development on the amenity of future occupants of the flats; and
- vi) highway issues

In addition the applicant has provided information and altered the previously approved plans in order to try and overcome the previous reasons for refusal. The applicant has reduced the number of units from 14 to 11, increased the private amenity space and increased the internal room sizes of the flats proposed; provided detailed information stating that the land in question has never been in use for employment purposes and has been a vacant site for a considerable amount of time; and submitted an up-to-date Noise report.

## Principle

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

Notwithstanding the above, the site up until circa 1940s housed a row of terraced properties, which were demolished and while the surrounding area to the west was developed and allocated for industrial and business use, to the east was developed for residential and this site has remained vacant from development.

With regard to the re-introduction of residential on this site it is considered that given the history of the site, and the fact that the demand for commercial spaces in the area has fallen with a number of vacant buildings and sites within the neighbouring industrial area, the proposed apartment block would strengthen the existing residential premises

which dominate Psalters Lane and would provide a defined edge to the industrial uses to the west.

In addition to the above it is considered that the proposal would bring a long established vacant site into use and would help reinvigorate this site and area. Therefore, whilst it would result in the loss of an industrial site and an employment opportunity in the area, it is considered that other material considerations such as the amount of time the site has been vacant, the fact the site has never been used for employment generating use and the lack of demand in the area at other industrial and commercial sites outweigh this loss in this instance on this particular site.

It is noted that at the heart of the National Planning Policy Framework there is a presumption in favour of sustainable development and Local Planning Authorities should approve development proposals that accord with the development plan without any delay. The development hereby proposed would be within a sustainable area.

In light of the above it is considered that the principle of introducing a residential use onto this site within an area allocated for industrial and business would by virtue of the reasons detailed above and the information submitted by the applicant in support of this application would overcome the previous reason for refusal and be in compliance with the National Planning Policy Framework.

#### Design issues and impact on streetscene

With regard to design issues and the impact of the proposed building on the visual amenity of the streetscene, the requirements detailed within the NPPF and UDP policy ENV3.1 'Development and the Environment' are relevant.

One of the core planning principles outlined within the NPPF at paragraph 17 states, planning should always seek to secure high quality design. Paragraph 56 further states: "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." In addition 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 aforementioned paragraphs fully support the requirements outlined within UDP policy ENV3.1 which seeks to ensure that all development makes a positive contribution to the environment by achieving an appropriate standard of design.

The building hereby proposed is three-storey high and occupies the majority of the site, the building has two frontages which are set directly behind the footpaths along Psalters Lane and Harrison Street.

The applicant states within the submitted design and access statement that the proposed building references surrounding, existing residential buildings and the adjacent former public house in its appearance. It further states that fenestration patterns have been designed to echo those of the existing Turners Arms and setbacks in the street elevations are proposed to break the mass of the building into elements which reflect the scale of the Turners Arms, while the setbacks also enable the introduction of balconies which will feature steel channel sections to their edges.

The design of the building is one of a contemporary architectural style which represents the character of the neighbouring building and is welcomed. It is considered that the overall design of the scheme works well, as it relates to the scale of the existing building and matches the size of window openings, yet provides enough detail to be a visually interesting scheme. It is therefore considered that the design of the scheme satisfies the requirements of paragraph 56 of the NPPF, and would improve the character of the area; in addition the scheme would satisfy the provisions outlined within UDP policy ENV3.1.

The applicant submitted a Building for Life assessment as part of the submission and they scored the development at 12.5 out of 20. The Council's accredited Building for Life Assessor has indicated the assessment submitted by the applicant is overly conservative given the constraints of the site and the quality of the design proposed. It is noted that some of the scores could be increased by half a mark which would give the scheme a total of 15.5 and therefore meet the Council's aspiration for overall quality.

In light of the above it is considered that the design of the building is one that is acceptable and would satisfy the relevant design policies and criteria of the NPPF and UDP.

#### The number of units proposed and its density:

The proposal is for 11 flats within a 'L' shaped three-storey building that would front both Psalters Lane and Harrison Street.

One of the reasons the previous application was refused was due to the inadequate internal accommodation and private amenity space sizes, which was considered to have resulted in the overdevelopment of the site to the detriment of the future occupants.

To overcome this reason for refusal the applicant has reduced the number of flats by 3, omitted the previous projecting element at the north of the site and increased the size of the flats and private amenity space.

In this instance the 6 no. 1-bed apartments fall just short of the minimum internal space standards set out within the South Yorkshire Residential Design Guide by 1-2 sq. metres, while the 5 no. 2-bed apartments are in excess of the guidance by between 12 and 17 sq. metres. Although the 1-bed flats fall short of the guidance, the amount is negligible given they would be in excess for studio apartments, while recent appeal decisions have indicated that a small amount below the guidance would be acceptable.

With regard to the external private space for the residents, the proposal is now provided with approximately 180 sq. metres of communal space to the rear of the building within a courtyard type area of soft and hard landscaping. The South Yorkshire Residential Design Guide states that for shared private spaces: "Shared private space for flats must be a minimum of 50 sq. metres plus an additional 10 sq. metres per unit either as balcony space or added to shared private space." Therefore in this instance the proposal exceeds the minimum guidance.

In addition to the above, UDP Policy HG5 'The Residential Environment' goes on to state that the Council: 'will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential

environment.’ Policy ENV3.1 Development and the Environment states that “Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping.” Both these policies support and complement the best practice guidance outlined in the SYRDG and paragraph 56 of the NPPF.

In view of the above it is considered that the amendments to the previously refused scheme have resulted in a more appropriate form of development which is not overly dominant or which results in the overdevelopment of the site. This is by virtue of the reduction in the number of units proposed and the increase in internal and external spaces, which ensure that the previous reason for refusal has been overcome and the proposal is in compliance with the NPPF, UDP policies HG5 and ENV3.1 and the South Yorkshire Design Guide.

#### Impact on amenity of neighbouring residents

In assessing the impact of the proposed development on the amenity of neighbouring residents, regard has been given to the Council’s adopted SPG ‘Housing Guidance 3: Residential infill plots’ which sets out the Council’s adopted inter-house spacing standards.

The guidance states there should be a minimum of 20 metres between principle elevations and 12 metres between a principle elevation and an elevation with no habitable room windows. In addition, no elevation within 10 metres of a boundary with another residential property should have a habitable room window at first floor.

In this instance there would be 20 metres between the front elevation of the proposed development facing Psalters Lane and the rear of flats on the opposite side of Psalters Lane at 97 – 102 Birch Park Court. The front elevation of the proposed building would also be approximately 10 metres from the rear boundary of Nos. 155 and 156 Hartington Close and approximately 19 metres to their rear elevations.

It is therefore considered that the proposed development would not have any impact on the existing amenity levels of the occupiers of these neighbouring properties. This is because the proposal would not cause any loss of privacy or result in any overshadowing of neighbouring properties or amenity spaces. As such it is in accordance with policy HG4.8 of the UDP

#### Impact on amenity of future occupants of the flats

One of the previous reasons for refusal related to the fact that the Noise Report submitted was 3 years out of date before the application was submitted and did not take account of the external extraction system at the adjacent site on Harrison Street which is the main noise generator in the area.

The applicant has now submitted an up-to-date Noise Report which states the dominant source of outdoor sound affecting the site during the day is the dust extraction system at the adjacent site, the rest of the time its road traffic.

The report goes on to state that usual acceptance on interior sound levels within dwellings can be achieved by fitting reinforced double glazing to living rooms and bedrooms in the elevations on to Psalters Lane and Harrison Street. In addition, background ventilation may be achieved within the interior sound requirements by using acoustic trickle vents to bedrooms with a direct view of Psalters Lane and trickle vents to all other windows.

The report also sets out that mitigation measures are proposed to reduce noise from the dust extraction plant reaching the outdoor private space within the development. The report states the neighbouring "...dust extraction plant emits noise from its fan, duct and the collection cyclone, the cyclone being located near its top height. The plant is partially shielded from the location of the private outdoor space by the wall of the neighbouring factory which forms the boundary with the site, but this wall ends at 6m from the boundary with Harrison Street leaving a gap of 6m through which the plant noise passes to the site unrestricted by any interposed structure. It is proposed to locate the south-west gable end of the flats building across this existing open gap thereby shielding the outdoor private space almost entirely from direct plant noise." However, a gap of 1.5m would remain, and the applicant has indicated that the gap should be blocked by a masonry wall or an imperforate wooden fence from ground height up to the top height of the factory building. The wall / fence should then approach the existing factory building as far as possible, ideally being sealed to it if possible.

The report goes on to state: "The barrier thus formed by the combination of the factory building, gable of the flats and the wall / fence would provide the maximum possible attenuation of plant noise reaching the outdoor private space." The report further states: "It is estimated that the 'effective height' of the barrier will be a minimum of 2m for shielding noise sources such as the collection cyclone near the top of the dust extractor and a maximum of 5m from sources such as the fan which is located at a lower height in the plant assembly. The angle turned downwards by sound passing over the top edge of the barrier will vary between 30o and 90o. Taking the least of these values gives a conservative tolerance margin to the predictions of sound reaching the private outdoor space, as shown below:

Sound pressure levels dB linear:

| Frequency (Hz)       | 63   | 125  | 250  | 500  | 1k   | 2k   | 4k   | 8k   |
|----------------------|------|------|------|------|------|------|------|------|
| SPL @ 3m             | 75.9 | 76.9 | 68.8 | 65.5 | 62.6 | 56.2 | 52.8 | 50.4 |
| Barrier loss         | 8    | 10   | 13   | 16   | 18   | 20   | 20   | 20   |
| Decay to 12m         | 12   | 12   | 12   | 12   | 12   | 12   | 12   | 12   |
| SPL in private space | 62   | 61   | 50   | 44   | 39   | 30   | 27   | 24   |
| A weighted           | 30   | 39   | 33   | 35   | 33   | 25   | 22   | 16   |

The overall sound level predicted by the above spectrum is **42 dB LAeq** in the private open space. This is well below (ie. better than) the 50-55 dB LAeq recommendation of the WHO for "outdoor living areas" and it is 10 dBA below the daytime background

sound level measured on the footway of Psalters Lane some distance from the site where the dust extraction plant was inaudible.”

The recently published Planning Practice Guidance ‘Noise’ section states that: “Local planning authorities’ plan-making and 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.”

In addition it further states: “The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation. These factors include: the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night...”

In addition the NPPF at paragraph 123 states: “Planning policies and decisions should aim to...recognise that development will often create some noise and existing business 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...”

As mentioned previously the main noise contributor that could affect this site is the adjacent extraction system which is in close proximity to the apartments.

Whilst paragraph 123 of the NPPF states businesses should not have unreasonable restrictions placed on them because of changes in nearby land uses since they were established, it is of note that when the adjacent industrial use was granted permission under RB1997/0001 there was a restrictive condition placed on the approval limiting the hours of operation at the site to 0600 – 1800 Mondays to Saturdays only. This condition is still enforceable and will ensure that the dust extraction system is not permitted to be used at unsocial hours when it would significantly affect the occupants of the proposed flats. It is of note that this condition was placed on the 1997 to protect the amenity of residents in the first and second floor of the former public house – Turners Arms which still has residential accommodation above the ground floor, and also the residents on the opposite side of Psalters Lane.

It is therefore considered that the future occupants of this building will be aware of this daytime activity when purchasing the flat, but will be protected at night from any potential hazardous noise disturbances.

In addition to the above it is of note that an application to change the use of the adjacent site to a B2 use (ref: RB1996/0799) which was submitted previous to the 1997 approval was refused due to its close proximity to residential premises. The reason for refusal stated that any night time / early morning activity would be detrimental to amenities of the occupants of those properties by reason of noise nuisance and general disturbance.

Taking the above into consideration, Environmental Health have raised no objections to this proposal and as such it is considered that the applicant has demonstrated that they can overcome the previous reason for refusal with regard to noise and that the development would be in compliance with the PPG, NPPF paragraph 17 and UDP policies EC3.3, ENV3.1 and ENV3.8. Accordingly, the future occupants of the proposed development would not be subject to detrimental levels of noise from neighbouring properties.

### Highway issues

The site would be provided with 11 car parking spaces (including 2 disabled bays) in a semi-basement area beneath the majority of the building. The parking area would be accessed off Harrison Street via a ramp to a gated access. In order to achieve the access off Harrison Street the applicant is proposing to relocate the existing telecommunications cabinet.

The Council's Transportation and Highways department have indicated that 11 spaces are acceptable in this area, given the sustainable location of the development and the potential for on street parking in the vicinity.

Therefore subject to recommended conditions relating to the vehicular access and car parking being provided before the flats are occupied; detailed information for a 2 metre wide footway on the site frontage to Psalters Lane being submitted and approved before development commences, and information relating to supporting sustainable transport methods, there are no highway issues with the proposal.

As such the proposal would comply with the requirements detailed within UDP policy T6 'Location and Layout of Development', which states that the Council, in considering the location of new development, will have regard to the increasing desirability of reducing travel demand.

### **Conclusion**

Having regard to the above it is concluded that the proposed development overcomes the previous reasons for refusal and will result in an appropriate use of this long established vacant land that was previously used for housing prior to the 1940s. Furthermore, the development is of an appropriate size, scale, form and design that will result in having a positive impact on the area and the neighbouring uses will not detrimentally impact on the amenity of future occupants.

The proposal therefore complies with the NPPF, NPPG, UDP and South Yorkshire Residential Design and is subsequently recommended for approval.

### **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

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

Reason

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

03

The proposed vehicle access and on site car parking shall be provided before the apartments are occupied.

Reason

In the interests of highway safety.

04

The development shall not be brought into use until details of a 2m wide footway on the site frontage to Psalters Lane have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is occupied.

Reason

In the interests of highway safety.

05

Prior to the first occupation of the flats, 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.

06

Prior to the commencement of development 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 interests of biodiversity gain as detailed within the National Planning Policy Framework.

07

No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.



#### Reason

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

08

Prior to commencement of development an intrusive site investigation shall be undertaken and the results of which shall be submitted to and approved by the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat areas of shallow mine workings, this work should be carried out prior to commencement of the development.

#### Reason

To ensure the site can be made, safe and stable for the proposed development.

09

Prior to the first occupation of the flats a plan indicating the position, size, design and material of acoustic boundary treatment. The acoustic fence shall to be erected from the ground level to the height of the UKCG factory wall shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the first flat is occupied.

#### Reason

To prevent noise escape from the UKCG air extraction system and in the interests of the visual amenity of the area and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

10

A further geo-technical and geo-environmental intrusive investigation shall be carried out in accordance with the recommendations outlined in the Eastwoods & Partners Phase I Site Investigation Report, section 7.0, page 17 (ref 35146). A report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development and any recommendations shall be implemented. 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). In the event that contamination is found at any time that was not previously identified, the contamination and method for its remediation must be reported in writing immediately to the Local Planning 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.

11

Gas protection measures are required for the proposed development. This shall comprise of the following:

- a) Passive ventilation beneath the suspended ground floor slab with an underlying minimum 150mm ventilated void.

b) A suitably resistant gas protection membrane lapped and sealed across the cavities and service entries.

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.

12

Prior to the commencement of any development a design classification and the corresponding aggressive chemical environment for concrete (ACEC) shall be specified for all sub surface concrete in the development, due to potentially elevated soluble sulphate content of the soils across the 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.

13

In areas where soft landscaping is proposed a capping layer of 450mm of clean soil and 150mm of topsoil will be required. Prior to development if subsoil's / topsoil's are required to be imported to site for soft landscaping works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination.

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.

14

Following completion of any required remedial/ground preparation 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.

## **Informatives**

01

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

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

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

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

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

02

The applicant is advised that:

- Interior sound levels for rooms not facing Psalters Lane should ensure bedrooms shall not be in excess of 30dBA (2300-0700) and 35 dBA in living rooms (0700-2300).
- The thickened glazing system installed to windows facing Psalters Lane must ensure that the dB limits below are not breached:

Bedrooms – 30dBA (2300 – 0700 hrs)

Living rooms – 35 dBA (0700 – 2300hrs).

- Upper floor bedroom ceilings to be double boarded with 12.5mm plasterboard.

03

The applicant is advised that development of the site should take place with separate systems for foul and surface water drainage. The separate system should extend to the public sewer.

04

Foul water domestic waste should discharge to the 375mm diameter public combined water sewer recorded in Psalters Lane, at a point approximately 7 metres from the site. The local public sewer network does **not** have capacity to accept any discharge of surface water from the proposal site. Sustainable Systems (SUDS), for example the use of soakaways and/or permeable hardstanding, may be a suitable solution for surface water disposal that is appropriate in this situation.

05

The use of SUDS should be encouraged and the LPA's attention is drawn to the National Planning Policy Framework (NPPF). The developer and LPA are advised to seek comments on the suitability of SUDS from the appropriate authorities. The developer must contact the Highway Authority with regard to acceptability of highway drainage proposals.

06

Restrictions on surface water disposal from the site may be imposed by other parties. You are strongly advised to seek advice/comments from the Environment Agency/Land Drainage Authority/Internal Drainage Board, with regard to surface water disposal from the site.

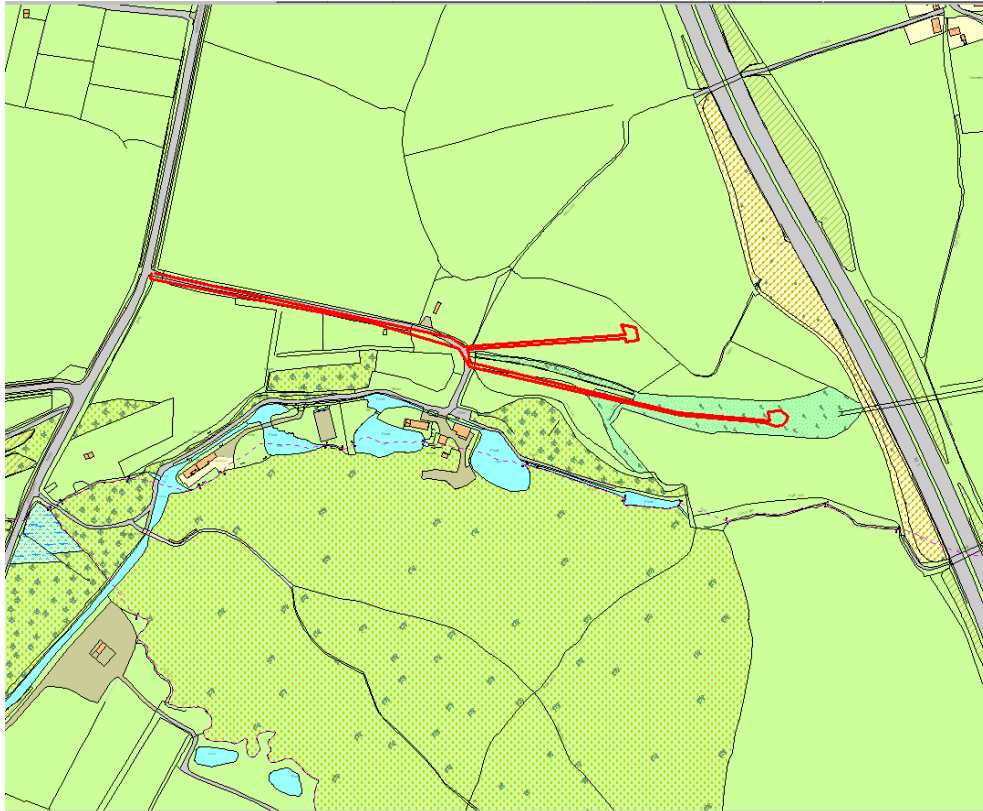
07

The public sewer network is for domestic sewage purposes. This generally means foul water for domestic purposes and, where a suitable surface water or combined sewer is available, surface water from the roofs of buildings together with surface water from paved areas of land appurtenant to those buildings. Land and highway drainage have no right of connection to the public sewer network. Land drainage will not be allowed into a public sewer. Highway drainage, however, may be accepted under certain circumstances; for instance, if SUDS are not a viable option and there is no highway drain available and if capacity is available within the public sewer network. In this event, a formal agreement for highway drainage discharge to public sewer, under Section 115 of the Water Industry Act 1991, will be required.

## 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.

|                              |  |
|------------------------------|--|
| <b>Application Number</b>    | <b>RB2014/0610</b>   |
| <b>Proposal and Location</b> | Application to vary conditions 06 & 07 (noise sensitive time period) imposed by RB2013/0425 (erection of 2 No. wind turbines and associated cabinets) at Norwood Lock, Mansfield Road, Wales |
| <b>Recommendation</b>        | Grant subject to conditions  |



### Site Description & Location

The site of application is an area of recently cleared scrubland within the Green Belt between the M1 motorway and Norwood Locks. The land once formed a railway line linked to the former West Kiveton Colliery.

The site is accessed via a formal private road to the Mansfield Road and a number of public footpaths come within close proximity to the site. The surrounding land is made up of waste land and agricultural fields. The nearest property is Springfield Farm on Stockwell lane some 300m away across the M1 motorway. In addition there is a housing estate positioned some 700m to the north and a neighbour further down the canal route called The Boatman some 500m away. The applicant's own dwelling and the recent 'Fish House' conversion (owned by applicant) are within 340m & 300m respectively.

### Background

RB2013/0425 - Erection of 2 No. wind turbines and associated cabinets - GRANTED CONDITIONALLY.

A screening opinion was carried out to determine whether an Environmental Impact Assessment should accompany the application. The proposed development falls within the description contained in Paragraph 3 (i) of schedule 2 to the 2011 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Therefore an Environmental Impact Assessment was not required to accompany the application.

## **Proposal**

The applicant seeks permission to vary conditions 6 and 7 of application RB2013/0425 for the erection of 2no. wind turbines. The conditions stated that:

06

Noise from the operational turbines as measured at the nearest noise sensitive receptor (as legally existing at the time of the consent) shall be limited to an LA90,10min of 40dB(A) during the daytime period at wind speeds of up to 10m/s-1 as measured or calculated at 10m height.

07

Noise from the operational turbines as measured at the nearest noise sensitive receptor (as legally existing at the time of the consent) shall be limited to an LA90,10min of 43dB(A) during the night-time period at wind speeds of up to 10m/s-1 as measured or calculated at 10m height.

The applicant's Planning Statement states the following:

This application is accompanied by a noise report prepared by Peak Acoustics. The report analyses predicted turbine noise levels at noise receptors in the vicinity. Condition 06 requires that noise from the turbines at the nearest noise receptor shall be limited to an LA90,10min of 40dB(A) during the daytime period at wind speeds of up to 10m/s-1 as measured or calculated at 10m height. The property of the applicant, who is financially involved, exceeds the limit as do noise receptors 2 and 3 slightly (which are located on the other side (east) of the M1 Motorway). However, ETSU advises that noise levels at such receptors shall be no greater than 5dB(A) above background noise levels. The submitted report clearly indicates that noise levels from the turbines are very significantly below background levels because of the proximity of the M1 motorway.

The submitted noise report concludes as follows:-

"At the Financially Interested Property (FI) the calculated resultant noise level is 13.6dB below the background noise levels and therefore meets the ETSU criteria of 5dB(A) above background noise levels, in instances where high background noise levels are present. At Noise Sensitive Receptor '2' (NSR2) the calculated resultant noise level is 17.3dB below the background noise levels and therefore meets the ETSU criteria of 5dB(A) above background noise levels, in instances where high background noise levels are present. At Noise Sensitive Receptor '3' (NSR3) the calculated resultant noise level is 15.9dB below the background noise levels and therefore meets the ETSU criteria of 5dB(A) above background noise levels, in instances where high background

noise levels are present. Resultant noise levels at all noise sensitive receptors are considered to meet criteria recommended by ETSU. This assessment is based on the ETSU-R-97 guidelines which state that noise levels at the nearest noise sensitive receptor should be limited to 5dB(A) above background noise levels in instances where high background noise levels are present.”

Condition 07 requires that noise from the turbines at the nearest noise receptor shall be limited to an LA90,10min of 43dB(A) during the night-time period at wind speeds of up to 10m/s-1 as measured or calculated at 10m height. The submitted report indicates that turbine noise will accord with the condition with the slight exception of the applicant’s dwelling – but ETSU sets a higher advisory limit for properties where the occupant is financially involved. In addition, the comments with regard to background noise levels as described for Condition 06 also apply.

Application is made to vary Conditions 06 and 07 so as to accord more closely with the advice contained in ETSU and to take into account background noise levels.

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

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

Policy ENV3.7 ‘Control of Pollution’

### **Other Material Considerations**

The National Planning Practice Guidance.

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 prior to this in June 1999. Under such circumstances 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 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 site notice and letters to individual properties. No letters of representation have been received.

### **Consultations**

Neighbourhoods and Adult Services (Environmental Health) – Recommends that the condition is changed to:

Noise emissions from the site (as measured LA90, 10mins) in free-field conditions, at any dwelling in existence prior to the development, shall not exceed the greater of 35 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the day and evening (07:00-23:00 hours) and shall not exceed the greater of 38 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the night (23:00-07:00 hours) at all wind speeds up to 10m/s. The noise emission values of the turbines shall include any tonal penalty if such is identified in accordance with the methodology set out in the ETSU-R-97 report.

## **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 this instance the principle of development has previously been established and as such the only issues for consideration are the changes to Conditions 6 & 7 relating to the noise from the proposed wind turbines.

In this regard the applicant indicates that noise levels at his property (Mill House) as well as a property known as the 'Fish House', which he has a financial interest in, exceed the limits as do levels at noise receptors 2 and 3 slightly (properties located across the M1 motorway to the east). However, ETSU advises that noise levels at such receptors shall be no greater than 5dB(A) above background noise levels. The submitted report clearly indicates that noise levels from the turbines are very significantly below background levels because of the proximity of the M1 motorway.

The Council's Environmental Health Service agree with the findings of the applicant's report and accept that a higher noise level in the dwelling known as the Fish House (which the applicant has a financial interest in) is acceptable. Environmental Health have recommended a slightly altered condition to replace conditions 6 & 7 and reflects the house ownership on site and the applicant considers this to be acceptable.

## **Conclusion**

That the variation to Conditions is acceptable and will not raise any noise or disturbance concerns to neighbour residents, and accords with Policy ENV3.7 'Control of Pollution'.

## **Conditions**



The development hereby permitted shall be commenced before the expiration of three years from 9<sup>th</sup> April 2014.

Reason

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

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Amended Turbine Elevations)(received 17/09/2013)

(Amended Site Plan Rev A) (dated 11/11/2013)

Reason

To define the permission and for the avoidance of doubt.

03

This permission shall be valid for 25 years and at the end of that period, or within six months of the cessation of electricity generation by the turbines, or within six months following a permanent cessation of construction works prior to the turbines coming into operational use, whichever is the sooner, the turbines, foundations, and all associated structures approved shall be dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the Local Planning Authority no later than three months following the cessation of power production, or 6 months prior to the end of the 25 year period, whichever is the sooner.

Reason

In the interests of the character of the wider area and in accordance with Policy UTL3 'Environmental Impact of Service Installations' of the Unitary Development Plan.

04

All electricity supply cables from the turbine shall be installed below ground.

Reason

In the interests of the visual amenity of the area and in accordance with Policy UTL3 'Environmental Impact of Service Installations' of the Unitary Development Plan.

05

Prior to the commencement of development 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

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

06

Noise emissions from the site (as measured LA90, 10mins) in free-field conditions, at any dwelling in existence prior to the development, shall not exceed the greater of 35 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the day and evening (07:00-23:00 hours) and shall not exceed the greater of 38 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the night (23:00-07:00 hours) at all wind speeds up to 10m/s. The noise emission values of the turbines shall include any tonal penalty if such is identified in accordance with the methodology set out in the ETSU-R-97 report.

Reason

In the interests of the amenities of the occupiers of nearby premises in accordance with ENV3.7 'Control of Pollution' of the Unitary Development Plan.

07

Wind shear data shall be calculated to predict turbine noise characteristics at 10m and at hub height (38m) for wind speeds of up to 10m/s, as recommended in the IOA Acoustics Bulletin: Prediction and Assessment of Wind Turbine Noise, and the data shall be submitted to and approved by the Local Planning Authority prior to the turbines being constructed on site.

Reason

In the interests of the amenities of the occupiers of nearby premises in accordance with ENV3.7 'Control of Pollution' of the Unitary Development Plan.

08

No development shall take place until a scheme to secure the investigation and alleviation of any potential unwanted radar returns on the primary surveillance radar of Robin Hood Airport Doncaster Sheffield (RHADS) caused by the operation of the turbines has been submitted to and approved in writing by the Local Planning Authority in consultation with RHADS. The scheme shall thereafter be implemented as approved. The development shall thereafter be carried out and operated in accordance with the approved scheme.

Reason

In the interests of aviation safety.

09

The applicant shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority prior to the commencement of development:

- Proposed date of the commencement of the development.

Within 14 days of the commissioning of the final turbine, the applicant shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority:

- Date of completion of construction.
- The height above ground level of the highest potential obstacle.
- The position of that structure in latitude and longitude.

Reason

In the interests of air traffic safety.

## POSITIVE AND PROACTIVE STATEMENT

Whilst the applicant did not enter into any pre application discussions with the Local Planning Authority, the proposals were in accordance with the principles of the National Planning Policy Framework and did not require any alterations or modification.

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2014/0612</b>  |
| <b>Proposal and Location</b> | Demolition of existing warehouse & erection of A1 retail units with mezzanine floors (13548 sq m gross external floor area) with associated car parking and landscaping (amendment to RB2012/1615), Alba/UPS warehouse, Cortonwood Drive, Brampton. |
| <b>Recommendation</b>        | Grant subject to conditions and Section 106 Agreement   |



### Site Description & Location

The application site consists of an area of 2.75 ha on Cortonwood Drive, which is currently occupied by a large industrial unit (Use Class B8) used as a UPS distribution centre with a floorspace of 13,400 square metres. The building is a substantial structure and has a utilitarian appearance constructed predominantly of profiled cladding. There are a large number of loading bays on the south west elevation of the building facing the existing adjacent retail park.

The site lies on the southern side of Cortonwood Drive and directly to the north east of the existing retail units (Asda Living, Halfords and SCS).

To the north east of the application site is another large industrial building, whilst the north on the opposite side of Cortonwood Drive is a smaller retail park consisting of three recently built retail units (Smyths, Pets at Home, and a vacant unit (formerly Dreams)). Otherwise this section of Cortonwood Drive is predominantly characterised by large industrial and business units.

The main retail park lies to the south and consists of Morrisons Supermarket, a large DIY store (B&Q) and a number of smaller units including Next, Matalan, Sports Direct, Boots and Argos. There is also a McDonalds and Pizza Hut restaurant.

The vehicular access to the site is via the Dearne Valley Parkway which runs to the north of the application site and provides access to the site via two roundabout junctions. The Dearne Valley Parkway lies within the neighbouring Borough of Barnsley. The Trans-Pennine Trail crosses the Cortonwood Bypass close to the main roundabout to the north west of the application site.

The nearest residential properties lie to the south, east and north-east of the application site in Brampton at a higher level, although there is no direct vehicular access from these residential properties there are a number of undefined footpaths running across the adjacent land.

## **Background**

Members may recall the previous application for this site (reference RB2012/1615) being presented in 2013. It was refused by Members but later granted at Public Inquiry. The previous permission has a total floorspace of 9,177 sq.m. The proposed retail units ranged from 1,115 sq.m. to 2,320 sq.m. (12,000 to 25,000 sq.ft.). The proposal included a car park to provide 309 car parking spaces.

The proposed building were in an L shaped form and orientated with its main elevation facing onto the existing adjacent retail units and towards Cortonwood Drive thereby creating a continuation of the adjacent units.

There are numerous other planning applications relating to the reclamation of the application site and surrounding industrial and retail park. The most recent applications related to the development of the site for the existing warehouse was made under the Enterprise Zone Planning Scheme:

RB2002/1387 – Details of the erection of a warehouse with ancillary offices (reserved by the Enterprise Zone Planning Scheme) – Granted

RB2002/1478 – Details of the erection of a distribution centre comprising a warehouse and ancillary offices (reserved by the Enterprise Zone Planning Scheme) – Granted

RB2005/0292 – Display of various wall mounted signs – Granted

## **Environmental Impact Assessment**

The proposed development falls within the description contained at paragraph 10 (b) of Schedule 2 to the 2011 Regulations and meets the criteria set out in column 2 of the table in that Schedule. However the Borough Council as the relevant Local Planning Authority, having taken into account the criteria set out in Schedule 3 to the 2011 Regulations, is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Accordingly the authority has adopted the opinion that the development for which planning permission is sought is not EIA development as defined in the 2011 Regulations.

## **Proposal**

This application seeks an amendment to the previously approved scheme. The amendments are as follows:

- The ground floor area of the proposed development is reduced to 7,974 square metres;
- Provision of mezzanine floorspace of a maximum of 5,574 square metres;
- A total increase of floorspace of 4,371 square metres;
- 314 car parking spaces.

A number of documents have been submitted in support of the application:

### Planning and Retail Statement

This document states that the principle of retail development on this site with a gross floorspace of 9,177 square metres has been established through the approval of the previous application. This application proposes an overall reduced footprint at ground floor but with mezzanine floor coverage with a maximum of 5,574 square metres. The Statement details evidence that mezzanine floor areas trade at approximately 50% of traditional ground floor sales area and taking account of this the proposal would result in an increased turnover of approximately 15% compared to the consented scheme should all the mezzanine areas be taken up. The conclusion of the report is that given that the Inspector found that the consented scheme would have little if no impact on existing town centres, a 15% increase in turnover would have no additional material impact.

### Transport Statement

The additional traffic generated from the proposed scheme is assessed in detail and an offer of a contribution towards the highway mitigation measures (i.e. contribution towards the cost of highway improvements within the Barnsley Local Authority Area at the Cortonwood, Wath Road and Broomhill roundabouts on A6195 Dearne Valley Parkway) has been offered. The contribution is consistent with the approved scheme, albeit with a pro-rata increase from £135,000 to £154,845 to take account of the 14.7% increase in traffic volume to be generated by the proposal (see paragraphs 3.7.2 and 3.7.3 of the TA).

Other supporting documents have been updated in line with the proposed amended scheme.

## **Development Plan Allocation and Policy**

## UDP Policies

The site is allocated for industrial and business use in the Unitary Development Plan.

EC1.1 Safeguarding Existing Industrial and Business Land  
EC3.1 Land Identified for Industrial and Business Use.  
EC3.3 Other Development within Business and Industrial Areas  
ENV2 Conserving the Environment  
ENV3.1 Development and the Environment  
T6 Location and Layout of Development  
ULT3.3 Energy Conservation

## Other Material Considerations

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

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

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.

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

## Publicity

The application has been advertised by way of site notice, press notice and letters to neighbouring properties. No representations have been received.

## Consultations

SYPTE has no objections;  
Streetpride (Transportation Unit) has no objections;  
Streetpride (Landscape Team) have no objections;  
Barnsley MBC – Comments awaited regarding the proposed contribution towards highway improvements;  
Environment Agency has no objections;  
Coal Authority – No Objection;  
South Yorkshire Police Architectural Liaison has no objections

## Appraisal

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

- (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 considerations in the determination of the application are:

The Principle of the Development;  
Retail Issues  
Highways Issues  
Design and Visual Amenity

#### The Principle of the Development

The application site is allocated for Industrial and Business Use in the Unitary Development Plan. However, the principle of retail development of this site is established by the planning permission for a similar development which was approved after a public inquiry in 2013 (reference RB2012/1615). Given that this application is for an amended scheme which includes mezzanine floor coverage there are no implications to the principle of the development.

#### Retail Issues

Paragraph 24 of the NPPF requires the application of a sequential test to planning applications for 'main town centre uses which are not in an existing centre and are not in accordance with an up-to-date development plan.' The order of preference for the sequential approach remains unchanged from PPS4, namely:

- (1) locations within existing town centres;
- (2) edge-of-centre locations, with preference given to accessible sites that are well-connected to the centre; and then
- (3) out-of-centre sites, where there are no in-centre or edge-of-centre sites available. Preference should be given to accessible sites that are well connected to the town centre.

Notwithstanding the above requirement, the decision issued by the Inspector in relation to the previous planning application on this site concluded that there were no sequentially preferable sites for the scale of the development proposed within the appropriate catchment area. The scale of the amendments increases the overall floorspace of the proposed development and it is acknowledged that there have been no sequentially preferable sites that have been made available or identified since the Inspectors decision last year.

Paragraph 26 of the NPPF requires proposed retail developments in out-of centre locations to be assessed against two impact criteria, the first of which replicates criterion

(a) of Policy EC16.1 of PPS4, whilst the second combines criteria (b) and (d) of Policy EC16.1:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time when the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Similarly, the Inspector in relation to the previous application concluded that the proposed level of trade arising from the development would not result on a significantly detrimental impact on the town centres identified within the accepted catchment area. The main consideration in terms of this proposal is therefore whether the additional retail floorspace proposed will result in a materially adverse impact as set out in paragraph 26 of the NPPF.

The proposal increases the floorspace by a maximum 5,574 square metres at mezzanine floor level. However, the ground floor area is reduced from 9,177 square metres to 7,974 square metres (a difference of 1,203 square metres). Overall, the increase in floorspace is 4371 square metres.

The supporting Retail Statement provides a significant amount of evidence that mezzanine floor areas trade at 50% level compared to ground floor retail sales areas.

The trade diversion of the permitted scheme was assessed on the basis of there being 8,259 square metres of sales area at ground level. This was agreed at the Inquiry and adopted a 90% sales to gross floor ratio. Based on the same ratio the ground floor of the amended scheme is 6,689 square metres. The supporting information has taken account of the trading consequences of the additional overall floorspace together with the reduction of the ground floor sales space. The applicants' assessment concludes that the total turnover of the revised scheme will be approximately 15% more than the permitted scheme.

The assessment of additional floorspace together with the assumption that the mezzanine floorspace will trade at a much lower level is accepted and on this basis it is accepted that the additional floorspace will not result in a significant adverse impact on the overall vitality and viability of the centres within the defined catchment area (as accepted by the Inspector).

### Highway Matters

Paragraph 32 of the NPPF states that:

“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and



- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.

Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

UDP Policy T6 refers to the location and layout of development and requires regard to be had to:

- “(i) land-uses are consolidated within existing commercial centres and settlement patterns which are already well served by transport infrastructure,
- (ii) major trip generating land-uses, such as major employment, leisure, retail and high density residential developments, are located in close proximity to public transport interchanges and service corridors,
- (iii) the development of sites which cause unacceptable traffic congestion on motorways, and local approach roads and trunk roads is avoided,
- (iv) development patterns, where appropriate, provide opportunities for living close to places of work, and
- (v) a range of services and facilities are available in villages and local centres with safe and convenient access for pedestrians, cyclists and people with disabilities.

In addition, the detailed layout of development should have regard to accessibility by private car, public transport, service vehicles, pedestrians and cyclists and people with disabilities.”

In terms of the layout of the car park, the proposed number of car parking spaces accords with the Council’s car parking standards although no mention of cycle parking is made. As a part of the appeal scheme a zebra crossing was proposed within the wider retail park to enhance pedestrian linkages within the site. This is again proposed as a part of this scheme and would assist visitors is moving between the two areas of the retail park.

Whilst the site is located within Rotherham Metropolitan Borough the highway network which serves it is entirely within the Barnsley Metropolitan District and Barnsley MBC is the relevant Highway Authority. The site is located off the A6195, a strategic and key route within the borough and the principle of the development is considered to be established. However, comments are outstanding from Barnsley MBC in respect of the proposed contribution towards off site highway works within the Barnsley Borough. The contribution is considered further in the following section.

### Planning Obligation

The Community Infrastructure Regulations 2010 introduced a new legal framework for the consideration of planning obligations and, in particular, Regulation 122 (2) of the CIL Regs states:

“(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.”

All of the tests must be complied with and the planning application must be reasonable in all other respects.

In this instance there was a contribution of £135,000 agreed during the course of the Public Inquiry in relation to the approved scheme for this site. This contribution was to be paid towards improvements to the junctions of three roundabouts within the Barnsley Borough to accommodate the additional traffic generated by the proposed development. The previously agreed contribution has now been assessed on a pro-rata basis taking account of the 14.7% increase in traffic volume to be generated by the amended scheme. The proposed contribution has increased from £135,000 to £154,845 and would still be used for highway improvements at three roundabouts within Barnsley Borough (Wath Road, Cortonwood and Broomhill) but would allow for slightly more extensive works.

### Design and Visual Amenity

Paragraphs 56 and 57 of the NPPF state 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... It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.”

In addition Policy ENV3.1 of the UDP requires development to make a positive contribution to the environment by achieving an appropriate standard of design.

The application site lies within an area which immediately consists of a number of large industrial buildings to the north and with the exception of the Post Office building to the south of the site, these buildings have a typically utilitarian appearance. To the south is the Cortonwood Retail Park; these units are large structures of modern appearance with large shop fronts at a low level and cladding to the upper structure of the building. The units are characterised by large signage structures which tend to have a consistent appearance.

The proposed units are very similar in style and scale to those on the adjacent retail park with large shop fronts with cladding on the upper part of the building and large signage displays. Whilst the site is currently occupied by a large industrial building, it is abutted by the modern retail buildings. The proposed development is considered to represent an appropriate scale of building and design which would sit in an acceptable manner with the surrounding built form. It is therefore considered that the scale and design of the proposed development accords with the NPPF and UDP Policy ENV3.1.

### **Conclusion**

In conclusion, the principle of a retail warehouse development on this site is established by the previous permission which was granted on public inquiry. This proposal seeks permission for a reconfigured scheme and whilst there is an increase in floorspace this is proposed at mezzanine level and the revised scheme results in a smaller ground floor sales area. In considering the trading levels of mezzanine floor and the conclusions

reached in considering the consented scheme it is not considered that there are any sequentially preferable sites for this development and furthermore the relatively minor increase in floor area would not be likely to result in a significant detrimental impact on existing centres within the defined catchment area.

In highway terms, whilst comments from Barnsley MBC are still outstanding, the contribution previously agreed has been increased on a pro-rata basis given the calculated increase in traffic likely to result from the increase in floorspace of this development. The increased contribution will allow similar but slightly enhanced works to roundabout junctions within Barnsley MBC. The internal layout of the proposed development is considered to be acceptable as are the number of car parking spaces and accessibility.

### **Recommendation**

A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:

- Provision of a contribution of £154,845 towards highway improvements within Barnsley Local Authority area specifically for improvements to the Cortonwood, Wath Road and Broomhill roundabouts.

B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the conditions set out in the report.

### **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

No development shall take place until details of the materials to be used in the construction of the retail units hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason

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

03

Notwithstanding the provision of the Town and Country Planning (Use Classes) Order 1987 (as amended) none of the retail premises (Use Class A1) hereby permitted shall not be used primarily for the sale of food.

#### Reason

The premises are not considered suitable for general use within the Class quoted for A1 (convenience) reasons and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

#### 04

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: Drawings 14592-PA 01 Rev A, 14592-PA 04 Rev B, 14592-PA 05 Rev B, 14592-PA 07 Rev B, 14592-PA-10 Rev A, 14592-PA-11 Rev A (received 8 May 2014, 13 June 2014 and 16 June 2014))

#### Reason

To define the permission and for the avoidance of doubt.

#### 05

Development shall not begin until details of a Zebra crossing in the approximate position shown on Plan 6 'Location of Proposed Zebra Crossing' in the Transport Statement) have been submitted and approved in writing by the local planning authority. The approved details shall be implemented prior to the development being brought into use.

#### Reason

In the interest of pedestrian safety and to enhance pedestrian linkages with the remainder of the retail park in accordance with the NPPF.

#### 06

The development shall be carried out in accordance with the submitted flood risk assessment and the following mitigation measures it details:

Limiting the surface water run-off generated by the development so that it will reduce the run-off from the existing site and reduces the risk of flooding off-site. There must be a 30% reduction in peak discharge and the system must be able to contain up to the 1 in 30yr storm and not flood any buildings/adjacent land up to the 1 in 100yr storm plus an allowance for

climate change. This measure shall be fully implemented prior to occupation, and according to the scheme's phasing arrangements (or with any other period, as agreed in writing, by the local planning authority).

#### Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

#### 07

Before the first retail unit is open for trading, the parking layout shown on the approved site plan (drawing 14592-PA 04 Rev B) shall be provided, marked out, and thereafter shall not be used for any other purpose than the parking of vehicles.

#### Reason

In the interest of highway safety.

#### 08

Before the first retail unit is open for trading full details of the type and position of cycle parking shall be submitted to and approved in writing by the local planning authority and installed and ready for use.

Reason

In the interest of promoting sustainable methods of travel.

09

Before each retail unit is open for trading a Travel Plan shall have been submitted by the occupier and approved in writing by the local planning authority. The local planning authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to each Travel Plan following submission of progress performance reports as timetabled in the monitoring programme.

Reason

In order to promote sustainable transport choices.

10

Before the first retail unit is open for trading, details of a pedestrian link up to the south-western site boundary to enable a link with a prospective footway at the adjacent car park shall be submitted to and approved in writing by the local planning authority and the approved details shall be implemented.

Reason

In the interest of ensuring pedestrian linkages with adjacent site.

11

No development shall take place until a detailed scheme of landscape works has been submitted to and approved in writing by the local planning authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify (through supplementary drawings where necessary):

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

The landscape works shall thereafter be implemented in accordance with the approved landscape scheme within a timescale agreed in writing by the local planning authority.

Reason

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

12

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

Reason

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

13

Other than demolition and site clearance works, no development shall take place until the condition of the Swinton Pottery and Newhall Upper shallow coal seams, running underneath the application site, is established. An investigation report, together with any necessary outline remediation/treatment options, shall be submitted to and approved by the Local Planning Authority prior to commencement of the development. Any necessary remediation/treatment works, as approved by the Local Planning Authority, shall take place prior to commencement of the development.

Reason

In the interest of land stability.

14

The development hereby permitted shall provide for no more than 13,006m<sup>2</sup> gross internal floorspace of which no more than 5,574m<sup>2</sup> gross internal floorspace shall be provided at mezzanine level and distributed at the discretion of the applicant.

Reason

To define the permission and for the avoidance of doubt.

### **Informatives**

#### **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.