

**REPORT TO THE PLANNING REGULATORY BOARD  
TO BE HELD ON THE 28<sup>TH</sup> AUGUST 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.

<b>Application Number</b>	<b>RB2014/0012</b>
<b>Proposal and Location</b>	Demolition of existing dwelling and outbuildings and erection of 2 no. semi-detached dwellings and two-storey building comprising of 7 no. apartments with formation of means of access and car parking at 49 Potter Hill, Greasbrough, Rotherham, S61 4NX for Mayfaire & Co. Ltd.
<b>Recommendation</b>	Grant subject to conditions



**Site Description & Location**

The application site is located on the corner of Potter Hill and Firth Street. The site currently contains a detached house sited at an angle to the road, which is unoccupied and in a poor condition, a detached outbuilding and a very overgrown garden area. The land in the vicinity of the site slopes down towards the North West.

The area around the site is a residential area. There is a mixture of house designs, but the majority of dwellings are detached or semi-detached two-storey houses with pitched or hipped roofs, constructed in brick or a mixture of brick and render.

To the south of the site is a two-storey detached house with its side elevation facing towards the site.

To the east are the rear gardens of properties on South Street, and to the north is a shop and post office with a flat above on the corner of Firth Street and Cross Street which has been extended.

## **Background**

There has been a number of planning applications submitted relating to this site, the most recent being:

RB1988/0300 – Outline application for the erection of two detached houses – Granted conditionally

RB1996/0277 – Outline application for the erection of 2 houses and garages – Granted conditionally

RB2001/0970 – Outline application for the erection of 2 houses and garages (resubmission of RB1996/0277) – Granted conditionally

RB2004/2365 – Details of the erection of two detached dwellinghouses and a detached garage (reserved by outline RB2001/0970) – Granted conditionally

RB2007/2196 – Demolition of existing dwelling and erection of a two-storey building comprising 13 no. flats – Withdrawn

RB2009/0658 – Demolition of existing dwelling and erection of a three-storey building comprising 13 no. apartments - Refused

## **Proposal**

The application is for the demolition of the existing house and outbuilding and to construct a pair of semi-detached houses facing Potter Hill, with a part three-storey, part two-storey building wrapping around the corner of Potter Hill and Firth Street that will contain 7no. apartments.

Vehicular access to a parking area to the rear of the buildings will be provided from Firth Street where there will be 14 car parking spaces and space for motor cycles.

The proposed semi-detached dwellings are to be sited in the southern section of the site facing Potter Hill. They will be set further forward than the dwelling to the south (49a Potter Hill). Each house will be provided with a garden area to the rear of 70 sq. metres for the property adjacent no. 49a and 60 sq. metres for the adjoining property.

The apartments are to be sited in the northern part of the site with the building wrapping round the corner of Potter Hill and Firth Street. The front elevation of the building will face the roads and the building is sited close to the back of the footpath. A communal garden area (112 sq. metres) for the apartments is to be provided at the rear of the building with a patio area on the southern side of the building.

A parking court is to be provided to the rear of the buildings and garden areas with an access to Firth Street between the apartment building and existing shop. Existing boundary treatments are to be retained along the boundaries of the parking court with adjoining properties.

The semi-detached houses are to be approximately 9 metres high, with the highest section of the apartment block at the southern end is approximately 9 metres high, which reduces to approximately 8.6 metres high adjacent to the shop and flat. The roof of the apartments will be stepped and include small front facing gables.

In support of the application the applicant has submitted the following documents:

#### Bat Survey

The submitted report states that the work undertaken did not record any evidence of use of the existing buildings by roosting bats and no further bat survey works are recommended.

It further states that whilst no evidence of bats were found, the application accords with the provisions of the NPPF as it is proposed to install integrated bat boxes within the fabric of the new buildings.

#### Phase 1 Land Contamination Report

The report states that the overall land quality risks posed by the site are moderate / low which means it is possible that harm could arise to a designated receptor from an identified hazard. It is likely any harm would be mild.

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

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is allocated for residential within the adopted Rotherham Unitary Development Plan and the following Policies are considered to be relevant.

UDP Policies:

HG5 'The Residential Environment'  
T6 'Access'

Core Strategy Policies:

CS1 'Delivering Rotherham's Spatial Strategy'  
CS3 'Location of New Development'  
CS6 'Meeting the Housing Requirement'  
CS21 'Landscapes'  
CS28 'Sustainable Design'  
CS33 'Presumption in Favour of Sustainable 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 application has also been assessed against the requirements detailed within the Council's adopted Supplementary Planning Guidance (SPG) 'Housing Guidance 3: Residential infill plots' and the South Yorkshire Residential Design Guide.

### **Publicity**

The application has been advertised by way of a site notice, while neighbouring residential and commercial properties have been notified in writing. 2 letters of objection have been received, the issues raised are summarised below:

- The proposed barbeque area would increase noise to the detriment of neighbouring residents.
- It would appear that only one of the seven apartments is suitable for wheelchair access.

### **Consultations**

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

Streetpride (Ecology): The ecological survey work received is suitable and the results of the survey are accepted. The mitigation proposals given are adequate and a suggested condition has been provided to ensure these are incorporated. It is felt that a minimum of 6no. bat roost features would provide adequate mitigation for reduction of a bat foraging habitat.

Streetpride (Landscapes): Have no objections subject to conditions.

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

Neighbourhoods (Urban Design): Are satisfied the proposals have taken on board their comments.

Neighbourhoods (Housing Officer): Have no comments as the scheme is below the threshold for affordable housing contribution.

Yorkshire Water: Have no objections subject to conditions.

## **Appraisal**

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

- (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 this application are considered to be;

- i) the principle of the proposed development;
- ii) the design of the proposed development and its impact on the visual amenity of the streetscene;
- iii) the impact of the proposed development on the amenity of existing neighbouring residents;
- iv) the impact of the proposed development on the amenity of future occupants of the site; and
- v) highway issues

## Principle

The application site is located within an area allocated for residential purposes within the Council's adopted UDP. In addition the site is allocated within Rotherham's urban area as detailed in the Core Strategy, where policy CS1 states: "Most new development will take place within Rotherham's urban area..."

In addition to the above it is noted that at the heart of the National Planning Policy Framework, which is supported by CS Policy 33 there is a presumption in favour of sustainable development and planning applications that accord with the development plan should be approved without any delay.

Policy CS3 further states that for existing communities to grow in a sustainable way new development should, wherever possible, be located where accessibility between new housing, existing centres, facilities and services can be maximised.

In light of the above it is considered that given the sites location within the built up area of Greasbrough which is within Rotherham's urban area, and in close proximity to existing housing, facilities, services and local public transport, the development would be within a sustainable location that would accord with the presumption in favour of sustainable development.

Furthermore, policy CS6 states housing development will be expected to make efficient use of land while protecting or enhancing the character of the local area. It is considered that given the location of the site and its previous land use the scheme will make efficient use of the site by bringing a vacant brownfield site back into an appropriate use. In addition, given the current overgrown nature of the site and the poor condition of the existing building the proposed development can only significantly enhance the character of the local area.

It is therefore considered that the principle of developing this particular site is appropriate and fully supported by the NPPF and CS policies 3, 6 and 33.

## Design issues and impact on streetscene

One of the core planning principles outlined within the NPPF at paragraph 17 states, planning should always seek to secure a 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."

CS policy 21 'Landscapes' states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes. In addition CS policy 28 'Sustainable Design' indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions.

The buildings hereby proposed are a mixture of two and three storeys in height. The semi-detached houses are slightly higher than the houses to the south but are sited on land that is at a lower level so the impact of the greater height is reduced. The highest section of the apartments is the southern end of the block and this reduces to two storeys adjoining the shop and flat. The roof of the apartments will be stepped and include small front facing gables which will help to break up the scale of the building.

The development has been designed to wrap around the road frontage of the plot with active front elevations facing both roads. As noted above the apartments have been designed with the building having sections with different roof heights, and projecting gables to break up the mass of the building. Both buildings will have pitched roofs and windows of similar proportions to those in surrounding dwellings.

They will be constructed in brick with tiled roofs, the colour of the materials has been chosen to blend with the local area. This will result in the appearance of the buildings being of a domestic scale and in keeping with the surrounding buildings which are predominantly semi-detached or detached houses of a mid-20th century design. The appearance of the buildings will integrate into the existing urban form.

The layout of the site will provide a strong feature on this corner plot, and associated facilities such as rear garden areas and car parking spaces will be largely hidden from public viewpoints. The front boundary treatment will be a dwarf brick wall with metal railings which will be in keeping with the appearance of the area.

The majority of buildings in the vicinity of the site are semi-detached and detached houses although there are terraced houses further to the north west on Potter Hill, and on the western side of Firth Street. There are also some larger buildings for example the shop and flat on the corner of Firth Street and Cross Street and the dwelling on the opposite corner of Potter Hill and Firth Street. The footprint of the proposed buildings is domestic in scale and in scale with the surrounding area.

In addition it is noted that the pair of semi-detached properties will be set further forward than the dwelling to the south (49A Potter Hill) but are stepped so that the closest dwelling is set further back than the north western one of the pair. This will ensure that the proposed houses have no greater effect on the amenity of the occupiers of no 49A than the current situation (the existing dwelling at no 49 is sited further forward than no 49A).

It is considered that the scheme has been sympathetically designed taking account of the characteristics and constraints of the site and the character of the surrounding area. Therefore the scheme is considered to be of an appropriate size, scale, form, design and siting that would ensure it would enhance the quality, character, distinctiveness and amenity value of the borough's landscapes and will be visually attractive in surrounding area.

In light of the above it is considered that the design of the proposal is one that is acceptable and would satisfy the relevant design policies and guidance of the NPPF and Core Strategy.

#### Impact on amenity of neighbouring residents and future residents of the development

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.

Further to the above the NPPF at paragraph 17 states planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

It is noted that the rear elevations of the pair of semi-detached properties and the rear elevation of the apartment block would be approximately 20 metres to the rear boundaries of properties on Cross Street. As such the proposed development would not give rise to adversely levels of overlooking and would satisfy the aforementioned inter-house spacing standards.

As stated in a previous section, the proposed pair of semi-detached properties will be set further forward than the dwelling to the south (49A Potter Hill). The applicant has submitted a plan showing that no part of the proposed pair of semi-detached properties will be within a 45 degree radius line when taken from the centre line of the nearest habitable room window at no. 49a. It is therefore considered that the proposal will not adversely impact on the outlook from no. 49a and would not appear overly dominant when viewed from no. 49a.



It is also considered that given the size, scale, form, design and siting of the proposed development, together with the orientation of the site, land levels and boundary treatment it would not result in any adverse levels of overshadowing of neighbouring properties or their private rear amenity spaces.

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 the proposal would comply with the guidance detailed within the NPPF and adopted SPG 'Housing Guidance 3: Residential infill plots'.

With regard to the impact of the proposal on the amenity of future residents of the development, it is noted that there would be 12 metres from east facing elevation of the flats to rear boundary of private amenity of the pair of semi-detached properties and as such the future occupants of these properties would not be significantly overlooked or have their privacy compromised.

Furthermore, the South Yorkshire Residential Design Guide indicates that three bedroom dwellinghouses should have at least 60 sq. metres of private amenity space, the proposed dwellings would have 60 and 70 sq. metres and therefore the requirements of the SYRDG would be satisfied.

In addition, it states in respect of apartments that there should be a minimum of 50 sq. metres plus 10 sq. metres per flat, in this instance that would equate to 120sq. metres. The proposed layout shows an area immediately to the rear of the apartment block measuring 112 sq. metres as being the main area of communal amenity space. When taken with a number of other smaller arrears around the site including a dedicated outdoor drying area for future residents, the amount of amenity space exceeds that which is recommended in the SYRDG and it is therefore considered that on balance the proposed communal areas provided would be acceptable and would provide future residents with an acceptable amount of space.

It is also of note that the internal space of the proposed dwellings and flats meet the minimum internal spacing standards of the SYRDG.

It is therefore considered that the future residents of this development would not have their amenity affected.

### Highway issues

The proposed scheme will involve the widening of the footway fronting Potter Hill to 2 metres. This will necessitate the relocation of a street lighting column (to the back of the widened footway and at the developer's expense.

It is also proposed to provide 14 car parking spaces to the rear of the site accessed via Firth Street, within this area it is also proposed to provide parking spaces for motor bikes and bicycles.

It is considered that the proposed development will not give rise to any highway safety issues and the level of parking proposed is appropriate for this form of development on this sustainable site on a main bus corridor into the town centre.

### Other considerations

In regard to the issues raised by the objectors, it is of note that the barbeque area shown on the originally submitted plans has been omitted from the amended plans, while the issue regarding the accessibility of the properties will be covered under Building Regulations. It is therefore considered that one issue has been overcome while the other issue is not a material planning consideration.

### **Conclusion**

Having regard to above it is considered that the proposed development would represent an acceptable and appropriate form of development on this sustainable site that would be in full compliance with the requirements detailed within the NPPF, Core Strategy and adopted SPG. As such the scheme is recommended for approval 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)

Drawing numbers 02 rev A, 03 rev A, 05 rev A and 06, received 7 August 2014

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

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

04

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity and in accordance with CS Policy 28 'Sustainable Design'.

05

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.

06

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

Reason

No details having been submitted they are reserved for approval.

07

Prior to the commencement of development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

08

The development shall not be commenced until details of the proposed relocation of the existing street lighting column in Potter Hill fronting the site have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented concurrent with the construction of the footway widening.

Reason

To safeguard safe and convenient pedestrian movement along the widened footway.

09

Before the development is brought into use, the approved Landscape scheme as indicated on the Jenkins Veitch Nolan Architecture Ltd plan drwg.no.06, Landscape Planting Schedule shall be implemented in accordance with RMBC landscape guidance document 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

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with CS Policies 21 'Landscape' and 28 'Sustainable Design'.

10

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

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with CS Policies 21 'Landscape' and 28 'Sustainable Design'.

11

Prior to the commencement of development a biodiversity mitigation strategy, including a schedule for implementation, shall be submitted to and approved by the Local Planning Authority. The strategy should include all details listed in section 4.2 of the ECUS Bat Survey Report (June 2014) and shall thereafter be implemented in accordance with the agreed statement before the development is brought into use.

Reason

In order to promote the biodiversity of the site in accordance with National Planning Policy Framework and Core Strategy 20 'Biodiversity and Geodiversity'.

12

Radon gas protection measures are to be installed in each of the new buildings constructed on site and the details of protective membranes used shall be forwarded to the local authority for review and comment.

Reason

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

13

If subsoil's / topsoil's are required to be imported to site for garden/soft landscaping areas, 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. The results of testing shall be forwarded to the Local Authority for review and comment

Reason

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

14

In the event that during development works unexpected significant contamination is encountered at any stage of the process, the local planning authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local 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.

15

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

Reason

In the interest of satisfactory and sustainable drainage.

16

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

Reason

To ensure that the development can be properly drained.

17

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

Reason

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

**Informatives**

01

The applicant is advised that the existing street lighting column will need to be relocated to the back of the widened footway. This work will be at the developer's expense and it is estimated that the cost will be around £1,800.

**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>RB2014/0333</b>
<b>Proposal and Location</b>	Demolition of an existing unlisted pair of semi-detached residential properties within Letwell Conservation Area & erection of 1 No. dwelling at land at 15-17 Gildingwells Road, Letwell, Worksop S81 8DD
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The site relates to a pair of semi detached properties constructed of concrete with a tiled roof with outbuildings to the rear. The dwellings are located on Gildingwells Road within the Letwell Conservation Area. The dwellings are within a row of properties fronting Gildingwells Road with Nos. 11 & 13 being a pair of semi detached properties of similar appearance. The dwellings have a long rear garden with open fields to the north. No. 17 Gildingwells Road has been extended with a modest porch and single storey rear extension whilst No. 15 Gildingwells Road has not been extended. The single storey rear extension of No. 17 Gildingwells Road is physically attached to the outbuildings and therefore makes the whole built form on the site one single building. From the historical maps it appears that the outbuildings were constructed at the same time as the dwellings. The village of Letwell is washed over by the Green Belt.

### Background

No planning history.

## **Proposal**

The applicant currently lives in the dwellings and the proposal is to demolish the pair of semi detached properties and to construct a single replacement dwelling on the site.

The proposed dwelling would be sited roughly over the footprint of the existing dwellings though would be set slightly further back on the plot.

The proposed dwelling would measure 14 metres in width and 9.1 metres in depth. The height to the eaves would be 5.3 metres and the height to the ridge of the roof would be 8.6 metres. The dwelling would be constructed of natural stone with a natural clay pantile roof. The dwelling would have a vernacular and traditional appearance to the front with stone window and door surrounds and coped gables and a chimney.

The property would have parking to the side adjacent the neighbouring property No. 13 Gildingwells Road. No outbuildings are proposed as part of this development.

A bat survey was submitted with the application which concludes that the proposed development of the site presents a low probability of harm to bats.

The application has been twice amended further to negotiations with the applicants to revise the design and its siting and location on the site. The dwelling was previously located further to the rear of the site set behind the footprint of the existing dwellings on the site and was moved further forward, closer to the footprint of the existing building, and was then moved further away from the adjacent property at 5 Church Lane to reduce the impact on existing windows in the side elevation of this property.

## **Development Plan Allocation and Policy**

On the 9th July 2014, the Council's Cabinet [Planning Highways and Streetscene Services] recommended that the Council adopt its Core Strategy. This is due to go to Full Council on 12 September 2014 and upon approval will be subsequently submitted to the Secretary of State for independent examination. With this in mind, the weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the core strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is allocated as Green Belt, the site also falls within the Letwell Conservation Area therefore the following Policies are considered to be relevant:



## UDP Policies:

ENV2.11 'Development in Conservation Areas'

Core Strategy Policies:

Policy CS4 'Green Belt'

Policy CS28 'Sustainable Design'

## **Other Material Considerations**

Interim Planning Guidance - 'Development in the Green Belt'. This has been subject to public consultation and adopted by the Council on 3<sup>rd</sup> March and replaces the adopted Supplementary Planning Guidance 'Environment Guidance 1 – 'Extensions to dwellings in the Green Belt' of the UDP.

Supplementary Planning Guidance (SPG) Environment Guidance 3: 'Development in Conservation Areas.'

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

South Yorkshire Residential Design Guide (SYRDG).

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 by both site and press notice owing to its location within Letwell Conservation Area. Adjacent neighbouring residents have further been notified in writing. Two representations have been received objecting to the application. The comments raised on the originally submitted application are summarised below:

- The proposed position of the dwelling will encroach on the privacy of neighbours and reduce light and overshadow neighbouring properties.
- Objections were raised about the comments about the Airy houses within the village made by the applicant in their application.

Further to the receipt of the first set of amended plans (amending the design and moving the property further forward on the site) further publicity took place and one of the previous neighbouring residents who objected on the originally submitted plans raised the further objections:

- The amended location of the dwelling still imposes on surrounding properties and will overlook neighbouring properties.
- No objections are raised to the appearance of the proposed dwelling but the new dwelling should occupy the same footprint as the existing dwellings.

Further publicity took place following the second set of amended plans (moving the proposed building further away from 5 Church Corner). Any comments received as a result of this publicity will be reported verbally at the Meeting.

## **Consultations**

Streetpride (Transportation & Highways Unit): Raise no objections to the scheme in a highways context subject to the provision of a hard surfaced parking for two vehicles on the site.

Streetpride (Ecologist): The Council's Ecologist has confirmed that the bat survey work found no evidence and low potential for use by bat species. The survey report recommends an emergency survey is undertaken as a precautionary measure. The Council's Ecologist has recommended a condition to provide biodiversity gain at the site.

Environmental Health (Contaminated Land): Notes that it would appear from the Council's records that the site has been predominately for residential purposes since the early 1960s and prior to that it was open land in agricultural use. The application site and surrounding sites have not been used for industrial purposes. Therefore the site would not have any contaminated land issues and no objections or mitigation measure are required in this respect.

## **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 considering this application the main issues for determination are:

- Principle of development in the Green Belt.
- Impact on the character and appearance of the Letwell Conservation Area.
- The impact upon neighbouring amenity.
- Whether the proposal would be of detriment to highway safety
- Ecological impact.
- Whether there are any very special circumstances to overcome the harm caused by inappropriate development, and any other harm.

#### Principle of the development in the Green Belt

The site is located within the village of Letwell which is a washed Green Belt village. Core Strategy Policy CS4: Green Belt states that: "Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy."

The National Planning Policy Framework at paragraph 89 states the following:

"A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are (amongst other things):

- The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;"

The Council's Interim Planning Guidance (IPG) – 'Development in the Green Belt,' advises with regards to replacement buildings that they should not exceed more than 10% of the volume of the existing building. The Guidance goes on to advise the following:

"The NPPF states that the replacement of buildings (including dwellings) in the Green Belt is not inappropriate provided that the replacement building is not materially larger than the existing building (including any extensions) and is in the same use.

For the purposes of this guidance and for development within Rotherham's Green Belt, it is considered that an increase in excess of 10% of the volume of the existing building would make the replacement building materially larger and, therefore, inappropriate development in the Green Belt and you would need to demonstrate the very special circumstances to justify it."

From the submitted plans and the Council's records the proposed increase in size of the building has been calculated as follows:

Existing building (consisting of the pair of semi detached dwellings as extended, and including the outbuildings now physically attached to the main building) = 841 cubic metres.

Proposed replacement dwelling = 877 cubic metres

Proposed increase = 4%

As such, the proposal does not represent inappropriate development in the Green Belt.

With regards to openness it is noted that in this instance this proposal would result in an increase of approximately 4% in the volume of the built form currently present on the site (including outbuildings to be demolished). As such, it is considered that the proposal would not have a greater impact on the openness of the Green Belt than the built form that would be lost on the site.

In view of the fact that the new building would be larger, albeit not materially, than the existing building (including the extensions and outbuildings now physically attached) it is considered reasonable to remove permitted development for further extensions to the property, which otherwise could be extended significantly without permission, thereby potentially having a greater impact on the openness of the Green Belt.

#### The impact on the character and appearance of the Conservation Area:

The site is located within the Letwell Conservation Area, where development in Conservation Areas is controlled following the advice and guidance contained in UDP Policy ENV2.11 'Development in Conservation Areas.' This states:

"In respect of designated Conservation Areas, the Council:

- (i) will not permit development (including changes-of-use, alterations and advertisement display), demolition and work to trees which would adversely affect their architectural or historic character or visual amenity, except that very limited exceptions to this policy may be accepted when compelling justification exists,
- (ii) will not grant consent to demolish buildings which make a positive contribution to them unless every possible alternative course of action has been satisfactorily discounted and, if for purposes of redevelopment, only when the development has been granted planning permission and is subject to a legally agreed commitment to its commencement and timing,
- (iv) will have regard to the degree to which proposals are compatible with their vernacular style, materials, scale, fenestration or other matters relevant to the preservation or enhancement of their character."

Paragraph 131 of the NPPF States that: “In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;
- the desirability of new development making a positive contribution to local character and distinctiveness.”

Paragraph 132 of the NPPF states that: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

The Council’s adopted Supplementary Planning Guidance (SPG) Environment Guidance 3: ‘Development in Conservation Areas,’ further states that: “Any new development within a Conservation Area will need to respect the physical characteristics of the area. Designs that respect the traditional architectural forms within the locality will be strongly favoured, whereas those that disregard or pay insufficient regard to traditional design will be considered inappropriate. Proposals will be assessed against the relationship of any development to the surrounding areas and will need to pay special regard to massing, scale and form. Site layout and siting will be carefully considered along with design, materials, architectural detailing, colour and appropriate landscaping.”

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

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

It is considered that though the existing dwellings are located in the Letwell Conservation Area they are not of historic interest nor do they have any notable architectural merit. Therefore with regards to the demolition of the existing buildings it is considered that their loss would not harm the character and appearance of the Conservation Area and indeed, provides an opportunity to improve its character and appearance.

It is considered that, further to negotiations with the applicants, the proposed dwelling would have a traditional and vernacular appearance and has been designed to reflect historic buildings present within the village. It is considered that the design and appearance of the proposed dwelling is attractive and utilises quality materials, namely the use of natural stone in random courses and natural clay pantiles for the roof. The dwelling also has some vernacular features such as coped gables and stone window and door surrounds. It is considered that overall the design and materials of the dwelling would be attractive and would enhance the character and appearance of the Letwell Conservation Area.

As such, subject to a specific materials condition, the proposal accords with UDP Policy ENV2.11 'Development in Conservation Areas,' the advice in the SPG Environment Guidance 3: 'Development in Conservation Areas,' as well as the advice contained within the NPPF.

#### The impact upon 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 should (amongst others):

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;"

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

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

It is noted that the application as submitted proposed to set the replacement dwelling behind the footprint of the existing dwellings. However, concerns were raised about potential for overlooking of neighbouring properties from the proposed dwelling. The amended plans are for the proposed dwelling to be set back approximately 3.7 metres from the frontage of the existing dwellings to be demolished and set approximately 10.7 metres away from the first floor side elevation of No. 5 Church Lane. It is noted that the dwelling has been designed in such a way so as not to overlook neighbouring properties, in particular No. 5 Church Lane and No. 13 Gildingwells Road. It is noted that no habitable room windows are proposed on either side elevation of the proposed dwelling.

As noted above, the dwelling has been moved to a distance of approximately 10.7 metres away from the first floor elevation of No. 5 Church Lane to avoid having an overbearing impact on two first floor windows, which serve habitable rooms. Though this distance is less than the 12 metres set out in the aforementioned guidance, it is noted that a 25 degree line has been drawn on the submitted plans showing that the proposed dwelling would not breach this line when viewed from these first floor windows, and it is not considered that these existing side windows, which overlook the neighbouring land, should unreasonably prejudice the development of the site. Therefore it is considered that the proposed dwelling would not appear overbearing or would lead to the loss of light to such a significant degree that it would harm the amenity of the occupants of this property.

Furthermore, it is noted that the existing dwelling No. 17 Gildingwells Road is located adjacent this property, albeit in a slightly different location, which currently creates a similar impact on outlook for the occupants of this dwelling.

It is also noted that the position of the dwelling does not breach a 45 degree line as measured from ground floor windows on the rear elevation of the other immediately neighbouring property No. 13 Gildingwells Road. Therefore it is considered that the proposed dwelling would not appear overbearing or harm the outlook of the occupants of this property.

With regards to the residential amenity of the proposed future occupiers of the property, it is noted that the room sizes and the private garden area of the proposed dwelling all adhere to or exceed the requirements set out in the South Yorkshire Residential Design Guide.

Taking account of the above, it is therefore considered to accord with the advice as set out in the South Yorkshire Residential Design Guide along with the advice within the NPPF.

Whether the proposal would be of detriment to highway safety:

The Council's Transportation Unit raise no objections to the scheme in a highways context subject to the provision of a hard surfaced parking for two vehicles on the site.

## Ecological impact

The NPPF states at paragraph 109 that: “the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity

here possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.”

With regards to ecology, the Council’s Ecologist has confirmed that the bat survey work submitted found no evidence and low potential for use by bat species. The Council’s Ecologist went on to recommend a condition for biodiversity gain at the site. It is considered reasonable to append a condition requiring biodiversity gain as part of any approval granted in respect of the development.

## **Conclusion**

The proposal for the demolition of the existing pair of semi detached properties and the erection of a single replacement dwelling would not be materially larger than the buildings it would be replacing. Therefore it is considered that the proposal would not have a greater impact on the openness of the Green Belt than the existing built form on the site. As such, the proposal does not represent inappropriate development in the Green Belt and is in accordance with policy contained within the NPPF.

Furthermore, it is considered that the development is acceptable in terms of the impact on the Letwell Conservation Area, neighbouring residents, highway safety and ecology, subject to the recommended conditions.

As such, it is recommended that planning permission be granted for the scheme for the aforementioned reasons.

## **Conditions**

01

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

Reason

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



02

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

(Drawing numbers CS/01325/3)(received 02/07/2014)

(Drawing numbers CS/01325/4A)(received 15/08/2014)

(Drawing numbers CS/01325/2C)(received 02/07/2014)

(Drawing numbers CS/01325/1C)(received 02/07/2014)

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of the visual amenity of the Letwell Conservation Area in accordance with Core Strategy Policy CS28 'Sustainable Design' and UDP Policy ENV2.11 'Development in Conservation Areas'.

04

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

05

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

Reason

In the interests of the residential and visual amenity of the area and in accordance with Core Strategy Policy CS28 'Sustainable Design.'

06

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

Reason

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

07

Prior to demolition of the existing building a bat emergence survey shall be undertaken in accordance with best practice. The survey report should be submitted to and approved by the Local Planning Authority. Any recommendations arising from the survey report shall be implemented in accordance with the agreed statement before the development is brought into use.

Reason

To protect species protected by law and in accordance with policy contained within the NPPF.

08

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 Design Guide (April 2014) 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

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design' and UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

09

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) 1995 (or any Order revoking or re-enacting that Order with or without modification) no enlargement, improvement or other alteration of the dwellinghouse, permitted under Part 1, Classes A, B and D shall be carried out to the dwelling hereby approved without the prior written approval of the Local Planning Authority.

## Reason

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

## **Informatives**

01

### **Control of working practices during construction phase (Close to residential)**

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

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

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

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

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

**Protected species**

**Wildlife Legislation**

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

**POSITIVE AND PROACTIVE STATEMENT**

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

<b>Application Number</b>	RB2014/0643
<b>Proposal and Location</b>	Erection of 39 no. retirement living (category II type accommodation), including provision of communal landscaping areas, erection of bin / electric scooter store and sub-station and associated external car parking at land at Companions Close, Wickersley S66 1AU for McCarthy & Stone Retirement Lifestyles Ltd
<b>Recommendation</b>	<p>A.. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <p>A commuted sum of £110,000 towards off-site provision of affordable housing, with an additional overage payment applicable for any rises in sales values from today's date, calculated on an index linked rise in the house market as calculated by either the Halifax or the Nationwide Building society and will be payable at the end of the financial years 2015/16, 2016/17 and 2017/18.</p> <p>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the conditions set out in the report.</p>



## **Site Description & Location**

The site to which the application relates forms a roughly rectangular piece of land approximately 0.47 hectares in area set to the south of Bawtry Road and to the west of Companions Close. It is currently vacant undeveloped land which has vegetation to the majority of its boundaries.

To the north of the site beyond Companions Close lies the former parking area to XL fish & chip shop (which has since been fenced off) with the rear gardens / garages to Nos 176 – 182 Bawtry Road and the three storey flats with undercroft garages (Nos 174 A – E Bawtry Road) forming the north boundary. The western boundary of the site is flanked by existing garden areas to No. 172 Bawtry Road and No. 26 St Albans Way with the southern boundary formed by gardens of existing detached bungalows at Nos 16 – 24 St Albans Way. To the east lies existing gardens to the two storey dwellings and three storey flats located on Companions Close.

## **Background**

The site has only been the subject of the following application:

RB2012/1049 - Outline application for the erection of 12 dwellinghouses including details of access –Granted conditionally

## **Proposal**

The application seeks full permission for the construction of a detached building comprising of a total of 39 no. retirement living flats set over two and three floors of accommodation comprising a mix of 24 one bed and 15 two bed flats. Each flat is indicated to contain separate living and kitchen accommodation with bathroom. At ground floor a resident's lounge, office and guest bedroom is further indicated.

The building is set on a 'T- shaped' footprint of approximately 1,120 sq metres set centrally within the site and has been designed so that it is set back approximately 12 metres off the flank wall to the 3 storey flats (nos 1 -16 Companions Close), with a two storey off shoot being located between 7.3 – 8.9 metres off the east garden boundary with Nos 19 & 20 Companions Close. To the south of the site the building is shown as being three storeys and set away from the south boundary with Nos 16 – 24 St Albans Way by a distance of some 12 – 14.5 metres and distances ranging between 5.2 to 15 metres in overall distance to the west of site with the rear gardens of the adjoining residential properties.

The proposed building is indicated predominantly three stories in height with an overall ridge height measured at the front at 11.6 metres being slightly reduced to 11.3 metres at the rear with a lowered two storey element (9.4 metres to ridge) indicated to the north-east corner. The building is approximately 50 metres in depth (front to back), 37 metres in width at the rear, and 21 metres wide at the front.

The building is proposed to be finished externally using a mix of red brick, artstone and reconstituted buff stone with through coloured rendered projections within each elevation, some of which are flat roofed with zinc / lead cladding. Other projections have tiled roofs continuing off the main roof slope which is indicated to be concrete tiled. In addition the majority of flats above ground floor level to the north west, north east, and south east elevations would be provided with Juliet balconies, with those on the south west having a mix of Juliet and walk out balconies.

A landscaped amenity area is proposed to be located to the south west of the proposed building with further open landscaped areas being provided to the south and north east of the proposed building. Although residents with ground floor flats are allocated sitting out areas immediately the building, the remainder is for communal use by all residents.

Access is proposed to be obtained through a new gated entrance taken via the existing Companions Close entrance close to its junction with Fairways. In terms of parking arrangements this is set to the north of the proposed building and indicates a total of 32 spaces, 2 of which are indicated as disabled bays.

Within the proposed parking area adjacent to the existing garden to the rear of No. 182 Bawtry Road it is proposed to construct a detached brick and concrete tiled roof electricity substation along with a detached brick and concrete tiled building which is to be utilised as a bin store and electric scooter storage area.

The application has been amended during the course of the application to take account of comments received from the Council's Drainage Engineer in respect to the relocation of a culvert from underneath the building, and alterations to the site access of Companions Close to take account of visibility issues raised by the Transportation Unit. Additionally further amendments in the form of slight enlargements to the building's size (by the addition of two off-shoots at the south east and south west corners of the rearward section of the building) along with alterations to the position of windows to prevent unacceptable overlooking from kitchen windows and obscure glazing to windows at the north east corner of the building have been submitted.

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

#### Design, Access & Sustainability Statement (DAS):

This details information regarding the physical context of the site, an assessment into the social and economic context of the development proposal; a policies and design guidance context analysis; an appraisal into the overall site, design, layout, scale, landscape, and appearance; Accessibility related considerations; and finally a Sustainability appraisal.

#### Planning Statement (PS):

Expands upon the policies and design guidance context analysis and the appraisal into the overall site, design, layout, scale, landscape, and appearance matters within the DAS and concludes that the proposal is fully in accordance with national and local planning policy providing a scheme that epitomises sustainable development and contributes towards the provision of an identified local housing need as well as the overall supply of housing.

#### Building for Life Assessment (BfL):

Uses the traffic light scoring system to assess the scheme against the new 12 questions and achieves a green score against each question.

#### Extended Phase 1 Habitat Survey:

Report notes that the site is generally of low ecological value; however, the trees on the site boundary have moderate ecological value possible for nesting habitats and as a foraging feature for bats and birds. Recommendations include Bat and bird boxes will be included within the new development design, and wild flower seed mix (suitably sourced for the area) and native trees and shrubs used to landscape areas surrounding the buildings. No further survey effort is considered necessary unless changes are made to the development area to be affected over and above those indicated within this report.

#### Phase 1 (desk study) Investigation Report:

The report revealed investigations into the site found no obvious signs of contamination or potential source of contamination on or off site other than elements of fly tipping. The report concludes that the overall land quality risks posed by the site are moderate / low which means that little if no possible harm could arise to a designated receptor from an identified hazard. It is likely any harm would be negligible.



#### Service Report (desk study):

This report has been submitted to assess the existing utilities infrastructure, identify constraints, estimate loadings to establish works and associated budget costs (total £76,000) to provide services to the proposed development and concludes that an electricity substation is required to facilitate the demand for the new development, along with new connections to enable drinking water and foul water along with phone / cable connections within the development.

#### Transport Statement (TS):

This report notes that the proposed development would be expected to generate only some 65 vehicle movements per 12 hour day (i.e. around 33 in and 33 out) and a maximum of some 7 two-way vehicle trips in any hour. The report further notes in sustainability terms that the development is served by bus stops located on Bawtry Road within some 250 metres of the site access (i.e. well within the recommended 400 metre walking distance to a bus stop). These bus stops accommodate bus service Nos.1, 1A, 2, 3, 3A, 10, 13, 13A, 19, 19A, 19B, 87, X7 and X13 linking the site to Rotherham, Maltby, Sheffield, Meadowhall, Worksop, Raven Common and Mexborough. In combination they provide around 1 bus every 4 minutes during the day, Monday to Saturday, reducing to 1 bus every 10 minutes in the evening and on Sundays.

The report further identifies that the development is within some 50 metres of a shopping parade which provides numerous food and non-food shopping opportunities as well and health facilities. In combination there are a range of facilities to serve the everyday needs of the residents.

It concludes that the scheme will make best use of these existing facilities, and that the site is in a sustainable location and the current proposed development is consistent with and will enhance the aims of current Government development/ sustainability policies.

#### Statement of Community Involvement (SCI):

Provides a commentary upon pre-application discussions held with the Council and outlines the outcomes of community events held in January and March 2014. The SCI notes the comments received and the changes undertaken to the scheme prior to submission of the application.

#### Evidence of housing demand and supply:

The report appraises the potential demand for specialist retirement housing using two alternative models, one of which is driven by the scale of potential need from persons who would potentially benefit from a move to specialised housing (the RHG model); the other looking at propensity to move by age group (the Contact Consulting model). The report concludes that:

- The RHG model suggests a need for 1,719 units of sheltered housing for sale or shared equity.

- The Contact Consulting model points to a need for 1,897 units of sheltered housing for sale or shared equity using national historic tenure norms and 1,764 units of sheltered housing using the current (2011) tenure split for RMBC.

Affordable Housing statement:

This report notes that the provision of on-site affordable housing units within specialised housing for the elderly is both problematic and unviable and that an off-site contribution of £50,000 would be more suitable in this instance

An independent viability assessment report has further been undertaken to assess the costs associated with such a development and to seek clarification over such matters. This is discussed in more detail below.

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

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is allocated for Residential purposes within the adopted Rotherham Unitary Development Plan and the following Policies are considered to be relevant.

UDP Policies:

HG4.3 'Windfall Sites'  
HG4.5  
ENV3.7 'Control of Pollution'  
ENV4.4 'Contaminated Land'

Core Strategy policies:

CS1 'Delivering Rotherham's Spatial Strategy'  
CS3 'Location of New Development'  
CS6 'Meeting the Housing Requirement'  
CS7 'Housing Mix and Affordability'  
CS14 'Accessible Places and Managing Demand for Travel'  
CS20 'Biodiversity and Geodiversity'  
CS21 'Landscape'  
CS28 'Sustainable Design'  
CS32 'Infrastructure Delivery and Developer Contributions,'

## **Other Material Considerations**

Council's Adopted Parking Standards (June 2011).

The Council's adopted Supplementary Planning Guidance (SPG) 'Housing Guidance 3: Residential infill plots'

The Council's Interim Planning Statement on Affordable Housing (2008).

South Yorkshire Residential Design Guide (SYRDG).

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 both press and site notice along with individual neighbour notification letters to adjacent properties. A total of eighteen letters of representation have been received in respect of the originally submitted proposals, nine of which object (including Wickersley Parish Council) with a further nine letters in support.

In summary those letters in support state:

- Welcomes such a proposal as it will be an asset to the community in Wickersley.
- This niche market of assisted living will allow independence to a lot of residents whilst still being able to offer the opportunity to access shops, transport facilities etc.
- Proposals will help reduce traffic congestion.

- Scheme will give a much needed boost to the local economy / jobs and local traders.
- Welcome this first class design to the locality.
- Proposal seems to be in keeping with existing properties.

Those objections in summary state:

Principle:

- Site has permission for 12 houses and these are what should be built.
- There is already an abundance of flats in this area already this is changing the face of Wickersley and is in danger of losing its village image and becoming a town.

Scale / bulk / design:

- Height of proposals at 3 storey will overdominate / overshadow.
- The site would over look local properties invading privacy especially any balconies etc.
- Development is too large for restricted size of the site and will leave little landscaping.

Landscaping:

- Assumptions made of ownership re vegetation upon the boundaries and whether these can be reduced / removed by the developers.
- All tree lines and hedges/fences denote boundaries and are a part of existing properties.
- Loss of natural green habitat to development.

Ecology / Biodiversity

- There is varied wild life using this site including many types of birds some of which are birds of prey.
- This site was recently being ploughed and has been seemingly abandoned to allow its degeneration.
- Bats can often be seen at night foxes have been seen with their cubs pheasants with their chicks what happens to these.

Drainage:

- Poor sewers in this area need regular drainage carried out to keep clear.
- It is believed locally that a stream runs under this site feeding into the gorse no consideration has been given to this.

Highways / traffic:

- Road access impinges onto Companions Close and traffic flows will come close to corner of existing flats on Companions Close.
- Recent Churchfields development and this as now proposed will add to 'rat running' through existing estates which have poor access to Fairways etc.
- Poor access for emergency vehicles.

- The proposal to create a private road/cul-de-sac has removed the possibility of continuing development into the adjacent land and by removing this possibility has a significant impact on those remaining houses and gardens.

Other matters:

- Can a three storey building be really suitable for the elderly as a power failure could leave them stranded (i.e. no lift)?
- Existing properties will be devalued as a result of this proposal.
- Why can we not have what people are asking for and have bungalows that are for anyone to buy and not the over sixties as this development is designed for.
- Poor initial consultation exercise undertaken advising of proposals.
- Wickersley village is slowly being killed off by piecemeal development, much of which seems to be more about cramming in maximum properties for maximum profit, without any regard for aesthetic appearance.

Wickersley Parish Council objects on the following grounds:

- a) The over-development of the site from 12 houses in an original planning application to 39 apartments.
- b) Inadequate parking provision of 32 spaces for 39 apartments, and concerns over access from Companions Close.
- c) Third floor windows overlooking properties on Saint Albans Way. It was noted that when the three-storey development at Companions Close was approved there were no third floor windows overlooking existing properties.
- d) Despite the proposed attenuation of surface water in storage tanks on the site, the development will lead to a much larger volume of surface water being discharged to the existing 300mm diameter culverted watercourse crossing the site. As such, the developer needs to prove the satisfactory structural condition of the culverted watercourse downstream in order to minimise any additional risk of flooding to existing property in Wickersley.
- e) The pre-planning consultation was not the best way to engage the community. A meeting was held on the first floor of a licensed premises with limited disabled access. The prior meeting at Wickersley Community Centre was by appointment only.

However, Wickersley PC members noted that the development was of high quality, backed by a well-regarded developer in the retirement industry. The location was ideal for the type of development, being a central location to Wickersley and making good use of the derelict land.

One Right to Speak request at Planning Board has been received from the applicant.

## Consultations

Streetpride (Transportation & Highways) Unit: Raise no objections to the amended plans received on highway safety grounds subject to the recommended conditions in respect of provision of adequate visibility onto Companions Close; restricting occupancy to over 60s; laying out and construction of parking areas; no allocation of parking; and submission of detailed sustainable transport measures.

Streetpride (Landscape Design): Requested amendments to the submitted landscaping scheme which were subsequently received, and had no objections to the revised details.

Streetpride (Tree Service Manager): Has no objections to the proposals.

Neighbourhoods (Contaminated Land Development Officer): Notes the lack of potentially contaminative activities at the site and that there is a very low risk to the future users of the site from potential site contamination. However recommends conditions to ensure controls over importation of top-soils and notification should unexpected significant contamination is encountered.

Streetpride (Ecology): The ecological survey work received is suitable and the results of the survey are accepted. The mitigation proposals given are adequate and a suggested condition has been provided to ensure these are incorporated.

Strategic Housing & Investment Service (Affordable Housing Officer): Notes that all of the 39 units in the proposed scheme are individual units of occupation under Use Class C3 and as such this triggers a requirement for Affordable Housing of 25%, which is the equivalent of 10 units. The applicants have offered via a commuted sum an off site contribution of £50,000 based upon the submitted viability appraisal, however having being independently assessed, a figure of £110,000 has been agreed, with an additional overage payment applicable for any rises in sales values from today's date. This will be calculated on an index linked rise in the house market as calculated by either the Halifax or the Nationwide Building society and will be payable at the end of the financial years 2015/16, 2016/17 and 2017/18.678,000. These matters would be secured via a S106 obligation.

Streetpride (Drainage): Advises that a general agreement to the revised line of the existing culverted watercourse (i.e. around the outside of the proposed building) has been agreed. However further matters in relation to flow rates need to be controlled via the imposition of suitable conditions / informatives, and ultimately approvals under the Land Drainage Act and Building Regulations will be necessary.

Severn Trent Water: Raises no objections to the proposals in respect of foul / surface water drainage matters.

South Yorkshire Police (Architectural Liaison): Comment that the scheme should be designed with Secured by Design accreditation in mind.

## **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 this application are considered to be:

- i) The principle of the proposed development.
- ii) The design of the proposed development and its impact on the visual amenity of the streetscene.
- iii) The impact of the proposed development on the amenity of existing neighbouring residents and future occupants of the building.
- iv) Highway issues.
- v) Ecology/ biodiversity matters.
- vi) Landscaping /tree matters.
- vii) Drainage issues.
- viii) Affordable housing considerations.
- ix) Other matters.

### Principle:

The application site is located within an area allocated primarily for Residential purposes (with a small section to the north being allocated Retail) within the Council's adopted UDP. Policy HG4.3 'Windfall Sites,' notes: "The Council will determine proposals for housing development in the light of their:

- (i) location within the existing built-up area and compatibility with adjoining uses, and
- (ii) compatibility with other relevant policies and guidance."

In addition the site is allocated within Rotherham's urban area as detailed in the Core Strategy to which Policy CS1 'Delivering Rotherham's Spatial Strategy,' notes that: "Most new development will take place within Rotherham's urban area and at Principal Settlements for Growth. At Principal Settlements and Local Service Centres development will be appropriate to the size of the settlement, meet the identified needs of the settlement and its immediate area and help create a balanced sustainable community."

In addition to the above it is noted that at the heart of the National Planning Policy Framework there is a presumption in favour of sustainable development and planning applications that accord with the development plan should be approved without any delay.

Policy CS3 further states that for existing communities to grow in a sustainable way new development should, wherever possible, be located where accessibility between new housing, existing centres, facilities and services can be maximised.

In addition the site has recently received the benefit of an outline application for residential development of 12 units (application RB2012/1049 refers).

Bearing in mind the site's current planning history and its location within the built up area of Wickersley, which is within Rotherham's urban area and in close proximity to existing housing, services and local public transport, it is considered that the development would be within a sustainable location that would accord with the presumption in favour of sustainable development.

Furthermore, policy CS6 'Meeting the Housing Requirement,' states: housing development will be expected to make efficient use of land while protecting or enhancing the character of the local area. It is considered that given the location of the site and its previous history the scheme will make efficient use of the site by bringing a vacant site into an appropriate use. In addition, given the current overgrown nature of the site the proposed development can only significantly enhance the character of the local area.

It is therefore considered that the principle of developing this particular site is appropriate and fully supported by UDP Policy HG4.3 'Windfall Sites,' the NPPF and CS policies 3, 6 and 33.

#### Design and layout issues and impact on streetscene:

Core Strategy Policy CS28 'Sustainable Design,' indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions.



The NPPF at paragraph 17 states that as one of its core planning principles that: “planning should always seek to secure a 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 National Planning Policy Guidance (March 2014), notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations, and further goes on to note that: “Local planning authorities are required to take design into consideration and should refuse permission for development of poor design.”

The main building proposed on this site, whilst predominantly set at three storeys in height with a smaller two storey off shot to the south east corner, has been designed having regard to the natural topography of the site which is in effect a trough in the centre where it is proposed to locate the proposed building. The scale of the building has regard to the relationship of the adjacent dwellings which comprise of a mix of three storey flats and two storey dwellings with accommodation within the roof at Companions Close to the east, the higher two storey flats with undercroft garages to the north, and the detached bungalows to the south on St Albans Way.

The overall design ethos with its façades incorporating recessed and gabled projections help to break up its overall scale and mass. Additionally the bringing down of eaves onto the façade of the building along with the building having lower roof elements assists in further masking its scale. The retention of pitched roof forms and the window proportions which respect those in surrounding developments further ensures that the building integrates into the immediate environs.

On the matter of materials, the palette indicated has been chosen to blend with the local area which is a mix of brick, render and natural / artificial stone. These materials will result in the appearance of the building being in keeping with the surrounding buildings which are a mix of flats and semi-detached or detached houses of a mid-20th century design. The appearance of the buildings will integrate into the existing urban form.

On the issue of layout, it is noted that the adjacent block of flats at Companions Close have a slightly greater footprint and scale to the scheme as submitted. In addition, it is noted that the site is located in a generally secluded backland locality, with other associated facilities such as the substation and bin / scooter store, car parking spaces and amenity areas being largely hidden from public viewpoints.

Overall, it is considered that the scheme has been sympathetically designed taking account of the characteristics and constraints of the site and the character of the surrounding area. Therefore the scheme is considered to be of an appropriate size, scale, form, design and siting that would ensure it would enhance the quality, character, distinctiveness and amenity value of the borough's landscapes and will be visually attractive in the surrounding area.

In light of the above it is considered that the design of the proposal is one that is acceptable and would satisfy the relevant design policies and guidance of the NPPF and CS policy CS28.

#### Impact on amenity of neighbouring residents and future residents of the development:

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.

Further to the above the NPPF at paragraph 17 states planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

As set out in the proposals section of the report, the building is located centrally within the site and has been designed so that it is set back approximately 12 metres off the flank wall with the 3 storey flats (nos 1 -16 Companions Close), with a two storey off shoot being located between 7.3 – 8.9 metres off the east garden boundary with Nos 19 & 20 Companions Close having had its windows re-orientated on a north –south axis. To the south of the site the building is shown as being predominantly three storeys (with a lower section incorporating accommodation within the roof space) and set away from the southern boundary with Nos 16 – 24 St Albans Way by a distance of some 12 – 14.5 metres and distances ranging between 5.2 to 15 metres in overall distance to the west of the site with the rear gardens of the adjoining residential properties. As such the proposed development would not give rise to adverse levels of overlooking and would satisfy the aforementioned inter-house spacing standards.

In regards to over dominating building forms, it is noted that the side elevation of the existing flats on Companions Way contains kitchen windows to some of the flats, which as noted above would be approximately 12m from the eastern elevation of the proposed building. Whilst the development would not meet the 25 degree rule, this primarily relates to back to back situations, and it is not considered that development of the site should be prejudiced by these

existing windows that overlook the site. Other properties on Companions Close and St Albans Way would not be encroached upon in respect of the 25 degree line. It is therefore considered that the proposal will not significantly adversely impact on the outlook or would not appear overly dominant when viewed from the residential dwellings surrounding the site.

It is also considered that notwithstanding the comments received from occupiers of surrounding dwellings, given the size, scale, form, design and siting of the proposed development, together with the orientation of the site, land levels and boundary treatment it would not result in any adverse levels of overshadowing of neighbouring properties or their private rear amenity spaces.

With the above in mind, 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 the proposal would comply with the guidance detailed within the adopted SPG 'Housing Guidance 3: Residential infill plots,' along with the advice within the SYRDG and that contained in the NPPF.

With regard to the impact of the proposal on the amenity of future residents of the development, it is noted that the South Yorkshire Residential Design Guide (SYRDG) indicates that for apartments there should be a minimum shared private space of 50 sq. metres plus an additional 10 square metres per unit either as balcony space or added to shared private space, in this instance that would equate to 2,340 sq. metres. The proposed layout indicates that amenity areas are to be a mix of private allocated patios outside resident's private flats with a further area outside the communal residents' lounge area at ground floor with the remainder of the grounds comprising of open landscaped gardens amounting to some 1,820 sq metres in total area. Whilst this would represent a shortfall of usable amenity in the region of 560 sq metres it is considered that the proposed communal areas provided would be acceptable and would provide future residents with an acceptable amount of space, taking account of the specific accommodation needs provided for as part of this proposal.

The SYRDG further notes that: "All shared amenity and play space must have an identified body to manage and maintain the space in accordance with an agreed management plan" and with this in mind the applicants have confirmed that this can be controlled via an on-going service cost associated with the residents occupation.

It is also of noted that the internal space of the proposed flats meet the minimum internal spacing standards of 46 sq metres (1 person one bed) and 62 sq metres (2 bed) as advocated by the SYRDG. It is therefore considered that the amenity levels provided for the future residents of this development would be acceptable.

### Highway matters:

In assessing highway related matters, Policy CS14 'Accessible Places and Managing Demand for Travel,' notes that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by (amongst other):

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- g. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed.

The NPPF further notes at paragraph 32 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."

Paragraph 34 to the NPPF further goes on to note 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."

The submitted Transportation Statement (TS) outlines that the very nature of the proposed development results in lower parking demand (32 spaces) compared to a normal residential use and therefore the minimum required parking standard of 59 spaces as set out in the Council's adopted parking standards (i.e. 1 parking space per unit plus 50% for visitors) does not apply in this case.

Having assessed this matter, subject to the imposition of the recommend condition requiring occupation of the development to over 60s, the Transportation Unit concur with this view, particularly as it is likely that older occupiers would make use of the local facilities i.e. shops etc. and would further be able to utilise the existing bus stops on Bawtry Road which are within some 250 metres of the site access (i.e. well within the recommended 400 metre walking distance to a bus stop).

Other matters in respect to the provision of adequate turning facilities for refuse / emergency vehicles along with provision of appropriate sight lines to the access onto Companions Close have been demonstrated through the submission of amended drawings and on this basis the proposed development will not give rise to any highway safety issues subject to the suggested conditions.

Overall it is considered that the scheme as submitted will make best use of the existing facilities within Wickersley town centre, and that the site is in a sustainable location and is acceptable and would satisfy CS policy CS14 and the relevant transportation policies and guidance of the NPPF.

#### Ecology/ biodiversity matters:

In assessing these issues, Policy CS20 'Biodiversity and Geodiversity,' notes that the Council will conserve and enhance Rotherham's natural environment and that resources will be protected with priority being given to (amongst others) conserving and enhancing populations of protected and identified priority species by protecting them from harm and disturbance and by promoting recovery of such species populations to meet national and local targets.

The NPPF further advises at paragraph 118 that: "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying (amongst others) the following principles:

- opportunities to incorporate biodiversity in and around developments should be encouraged."

The submitted Extended Phase 1 Habitat Survey Report notes that the site is generally of low ecological value with no ecological constraints to the development being identified. The report does go on to advise that the trees on the site boundary have moderate ecological value possible for nesting habitats and as a foraging feature for bats and birds. Notwithstanding the comments raised by objectors as to the wildlife haven created by the site currently, the advice received from the Council's Ecologist is that the extent and methods of survey work are appropriate and the results of the survey work are accepted. The assessment results show that, without mitigation, the proposed development will have a slight adverse impact on the biodiversity interest of the site, however recommendations for mitigation and biodiversity gain have been provided in the report which can be controlled through the imposition of an appropriately worded condition to ensure biodiversity mitigation and enhancement strategy is submitted.

With this in mind it is considered that the proposals accords with the relevant biodiversity policies and guidance of the NPPF and CS Policy CS20.

### Landscaping / tree matters:

With respect to these matters Policy CS21 'Landscapes,' states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes by ensuring that landscape works are appropriate to the scale of the development, and that developers will be required to put in place effective landscape management mechanisms including long term landscape maintenance for the lifetime of the development.

Taking account of this issue the scheme has been submitted having regards to the retention of the majority of the landscaping (trees / hedgerows) around the perimeter of the site and with further planting enhancements within the communal garden areas. The Landscape Design Service notes that the submitted landscape scheme, as revised, is of a good standard and should provide an attractive setting for the development in tandem with the retained boundary treatment. Subject to the imposition of the recommended condition in respect of landscape retention and maintenance, it is considered that the proposals accords with Policy CS21 'Landscapes.'

### Drainage issues:

Policy CS25 'Dealing with Flood Risk,' notes that proposals will be supported which ensure that new development is not subject to unacceptable levels of flood risk, does not result in increased flood risk elsewhere and, where possible, achieves reductions in flood risk overall. In addition CS25 notes that proposals should demonstrate that development has been directed to areas at the lowest probability of flooding by demonstrating compliance with the sequential approach i.e. wholly within flood risk zone 1, and further encouraging the removal of culverting. Building over a culvert or culverting of watercourses will only be permitted where it can be demonstrated that it is necessary.

The NPPF notes that: "When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and, it can be demonstrated that:

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

In assessing this issue, the Council's Drainage Engineer notes that the site is within flood zone 1 and is therefore at the lowest risk of flooding and, following submission of revised plans, has agreed that the existing culvert which runs through the site can be diverted without being placed under the proposed building. Subject to the recommended conditions/informative it is considered that the proposals accord with Policy CS25 'Dealing with Flood Risk,' and the advice within the NPPF.

Affordable housing considerations:

Policy CS7 'Housing Mix and Affordability' states: " The Council will seek the provision of affordable housing on all housing development according to the targets set out below, subject to this being consistent with the economic viability of the development:

- Sites of 15 dwellings or more or developments with a gross site area of 0.5 hectares or more; 25% affordable homes on site.

Where it can be demonstrated that these targets would prevent the delivery of a viable scheme, the precise level of provision will be negotiated, based on a viability assessment. Any viability assessment shall be carried out at the expense of the applicant, according to the principles set out below:

The applicant will raise any viability issues with the Council during the pre-application stage. If a third party appraisal is required the applicant, the Council and the third party consultant will meet to scope the details of the appraisal. An "open book" approach is required, whereby development finances and their underlying assumptions are subject to appraisal in order to support a claim. At the very least the applicant will need to provide evidence for the following items:

- Projected Gross Development Value (GDV) (e.g. rents, prices, yields; discounted values)
- Construction costs and programme (e.g. £/m<sup>2</sup>, unit size (m<sup>2</sup>), build period)
- Finance, fees and all other associated costs (e.g. rate of interest, fee rates, lump sums)
- Gross Profit margins (e.g. % on costs; % of GDV)
- Residual Land Value (i.e. the budget to buy the land) or Land Price (if already purchased).

The Council will seek every opportunity to work positively with developers and other partners to deliver affordable housing and a mix of housing types to meet local needs through use of its own land, all available funding opportunities, innovative development models and other available means. Detailed implementation guidance will be laid out in an Affordable Housing Supplementary Planning Document."

Policy CS32 'Infrastructure Delivery and Developer Contributions,' notes that "Development will be required to contribute to funding all or part of the items of infrastructure listed in the Infrastructure Delivery Schedule, through a combination of mechanisms such as a Community Infrastructure Levy (CIL) and S106 Planning obligations. The Infrastructure Delivery Schedule is indicative and final requirements will be assessed based on the specific requirements stemming from each development, taking account of capacity and legislation concerning developer contributions.

It is acknowledged that in some instances there may be a need for negotiation and prioritisation of the overall developer contribution requirements (based on what is needed to make the development acceptable and what the development can afford to contribute). Any negotiation will need to take account of all policy requirements stemming from this plan, including requirements such as affordable housing and renewable energy generation.

Where there is a need to negotiate on the level of developer contribution, the onus will be on the developer to fund and submit an independent viability appraisal and valuation of costs. The appraisal should set out the residual land value based on policy compliant requirements, and additional scenarios should demonstrate the variations in contributions to achieve a neutral and positive residual land value.

This viability appraisal will be based on jointly agreed input assumptions (agreed by the Council and the developer). The developer will need to submit evidence of the amount paid for the land – noting that any abnormal payments beyond current market values will not be accepted. All assumptions will be based on current market conditions as at the date of the grant of planning permission."

The applicant stated that this scheme will not be financially viable if the policy position of 25% Affordable Housing had to be met. They produced their own "in house" viability appraisal which showed that the scheme could contribute a commuted sum of £50,000 for off-site provision of Affordable Housing. The Council's Affordable Housing officer disputed some of the costs and assumptions, profit levels and other elements of the applicant's viability appraisal. She felt that the scheme could contribute a greater amount of commuted sum, and it was mutually agreed that an Independent viability appraisal should be carried out by an external third party.

Following further discussions between the relevant parties it has been agreed that £110,000 commuted sum is set. However, there will be an additional overage payment applicable for any rises in sales values from today's date and this will be calculated on an index linked rise in the house market as calculated by either the Halifax or the Nationwide Building society and will be payable at the end of the financial years 2015/16, 2016/17 and 2017/18.



### Other matters:

The concerns raised in respect of land ownership matters, such as the proposed location fencing and tree removal on third party land, are noted, though these are civil matters between the relevant parties concerned and are not material planning considerations in the assessment of the application., A suitably worded informative is recommended advising that the applicant checks out all such matters.

In terms of devaluation of property, again this this is not a material planning consideration in the assessment of the application and therefore cannot be taken account of.

### **Conclusion**

Having regard to the above it is considered that the proposed development would represent an acceptable and appropriate form of development on this sustainable site that would be in compliance with the requirements detailed within the UDP and Core Strategy, as well as the adopted Supplementary Planning Guidance and the NPPF. As such, subject to the signing of the Section 106 agreement in respect to the matter of contributions towards off site affordable housing, it is 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)

Drawing nos. 1966-1-01, 08, 09

Drawing nos 1966-01-03a, 04a, 05a, 06a, landscape sheets S549-1 & S549-2  
Rev A received 08/07/14;

Drawing no. 1966-01-10a – received 28/07/14

Drawing no. 1966-01-02b – received 08/08/14

Drawing no. 2533-P1c – received 12/08/14

Reason

To define the permission and for the avoidance of doubt.

03

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity and in accordance with CS Policy 28 'Sustainable Design'.

04

Before the development is brought into use the car parking area shown on the approved drawing (1966-01-02b) shall be provided, marked out and thereafter maintained for car parking. The car parking facilities shall be provided on a communal basis and shall not at any time during the lifetime of the development be allocated to individual properties without the prior written approval of the Local Planning Authority.

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.

05

Before the development is brought into use the sight lines indicated on the approved drawing (1966-01-02b) 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

In the interests of road safety.

06

Prior to the first occupation of the development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

07

Landscaping of the site as shown on the approved Landscape plans (Shackleton Associates drawing nos. S549/1 & S549/2A) 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 CS Policies 21 'Landscape' and 28 'Sustainable Design'.

08

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

Reason

In the interests of the visual amenities of the area and in accordance with with CS Policies 21 'Landscape' and 28 'Sustainable Design'.

09

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

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with CS Policies 21 'Landscape' and 28 'Sustainable Design'.

10

Prior to the commencement of any development on the site a detailed Arboricultural Method Statement shall be submitted to the LPA for consideration and approval in accordance with BS 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations. This shall include details any special design and construction methods necessary within the recommended root protection areas of the trees shown to be retained to help safeguard their future prospects throughout any development. The approved development shall then be implemented in accordance with the approved details.

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 CS Policies 21 'Landscape' and 28 'Sustainable Design'.

11

Prior to the commencement of development a biodiversity mitigation strategy, including a schedule for implementation, shall be submitted to and approved by the Local Planning Authority. The strategy should include all details listed in Section 8 of the Extended Phase 1 Habitat Survey Report (Marishal Thompson, 25/04/2014) and shall thereafter be implemented in accordance with the agreed statement before the development is brought into use.

Reason

In order to promote the biodiversity of the site in accordance with National Planning Policy Framework and Core Strategy 20 'Biodiversity and Geodiversity'.

12

If sub-soils/top-soils are required to be imported to site for garden/soft landscaping areas, 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. The results of testing shall be forwarded to the Local Authority for review and comment

Reason

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

13

The site shall be remediated in accordance with the approved measures as contained within the Phase I (Desk Study) Investigation Report prepared by Opus International Consultants, dated 27 July 2012, reference J-D0996\_R1\_RB\_Final and the Phase 2: Ground Investigation Report prepared by Arc Environmental, dated 13/02/2014, project number 13-862 before occupation. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

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

No development shall take place above ground level 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 CS policy CS28 'Sustainable Design'.

15

No development shall take place above ground level until there has been submitted to and agreed 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 first brought into use.

Reason

In the interests of the visual amenity of the area and in accordance with CS policy CS28 'Sustainable Design'.

16

The window(s) on the elevation of the development facing eastwards towards the existing development at Companions Close as indicated on drawing no.1966-01-05a shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and be non-openable and the window(s) shall be permanently retained in that condition thereafter.

Reason

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

17

Drainage of the site shall be undertaken in accordance with the submitted details as set out on drawing no. 2533-P1c – received 12/08/14 unless otherwise agreed in writing with the Local Planning Authority.

Reason

For the avoidance of doubt as to the scope of this permission and in accordance with Policy CS25 'Dealing with Flood Risk,' and the advice within the NPPF.

18

Unless otherwise agreed in writing by the Local Planning Authority, occupation of the development hereby approved shall be limited to residents that are:-

- (i) a single person not less than 60 years of age, or
- (ii) joint residents one of whom is not less than 60 years of age and the other not less than 55 years of age.

Reason

To minimise the need for on-site parking in the interest of highway safety and ensure that the development does not impact on educational provision in the locality.

**Informatives**

01

The applicant's attention is drawn to the requirement to apply for approval to discharge into the culverted watercourse and/or for any works that affected the culverted watercourse. All approval and/or agreements must be agreed with the Streetpride -Drainage Engineer. Please contact 01709 822983 for further information.

02

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

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

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

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

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

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

03

INF 20 Deeds/Covenants/Rights of Access

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

04

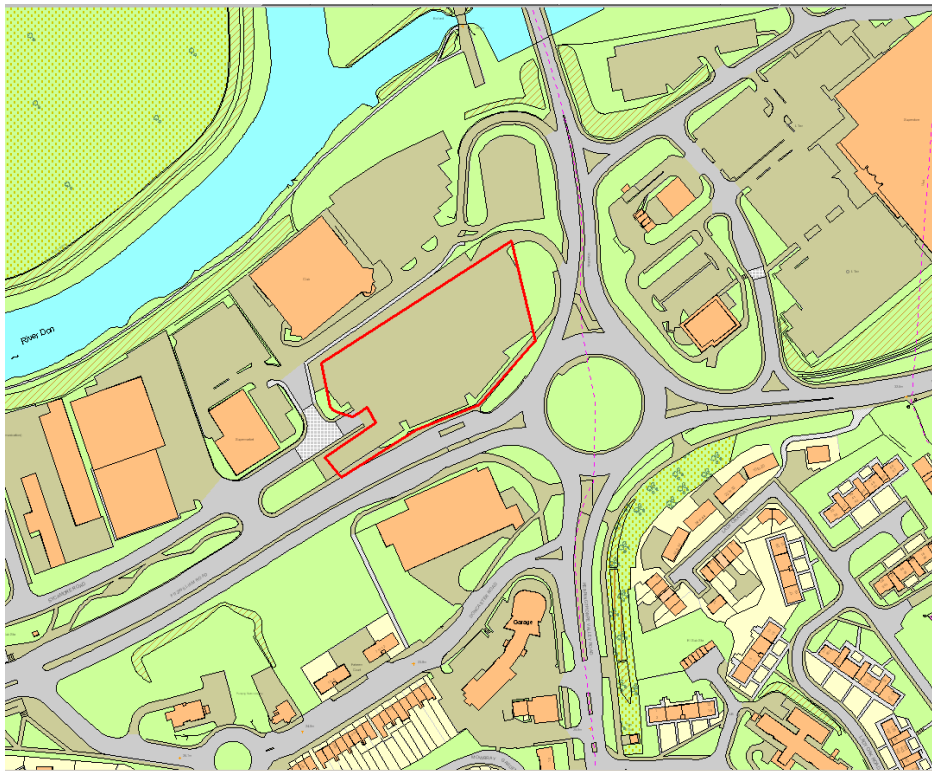
INF 33 Section 106 Agreements

The planning permission is subject to a Legal Agreement (Obligation) under Section 106 of the Town and Country Planning Act 1990. The S106 Agreement is legally binding and is registered as a Local Land Charge. It is normally enforceable against the people entering into the agreement and any subsequent owner of the site.

## 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>RB2014/0698</b>
<b>Proposal and Location</b>	Erection of public house/restaurant (Use Class A4/A3), 3No. retail units comprising 1no. drive through (Use Class A5) and 2no. restaurant/take away units (Use Class A3/A5) land off Fitzwilliam Road, Eastwood, S65 3SR.
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The application site consists of a vacant area of land close to the mushroom roundabout on the corner of Fitzwilliam Road and Aldwarke Lane with Sycamore Road lying to the west and linking the industrial area to the south. The site was formerly occupied by a car showroom although this has now been demolished and the site consists of a level predominantly hard surfaced site which lies at a slightly lower level in relation to the adjacent highway.

The site covers an area of 0.9ha and is surrounded by a mix of land uses which includes commercial, industrial and residential uses within the vicinity.



The surrounding uses include a large bingo hall to the north, a small supermarket to the west and the larger Asda complex (including McDonalds drive thru) to the north east on the opposite side of Aldwarke Lane.

The site is intersected by a Yorkshire Water drainage culvert which runs approximately north to south and divides the site in half.

There are two access points in the sites, the first being access only, taken from Aldwarke Lane whilst egress is via Sycamore Road, a spur road linking Fitzwilliam Road and Chesterton Road to the west.

## **Background**

RB1977/0389 – Construction of roads and sewers – Granted

RB1988/1119 – Erection of car showroom, workshop and canopy – Granted Conditionally

RB1989/0875 – Erection of a car de-wax building – Granted Conditionally

RB1991/1529 – Retention of a car showroom – Granted Conditionally

RB1992/1057 – Display of several illuminated signs – Granted Conditionally

RB1997/0907 – Display of 2 illuminated signs – Granted

RB1999/1450 – Display of various signs and 12 flagpoles – Granted Conditionally

RB2003/1797 – Installation of floodlights – Granted Conditionally

RB2008/1716 – Erection of three buildings to form 4no. retail units for use within Use Class A1 – Withdrawn

RB2009/0400 – Erection of 2no. buildings to form 2/3 retail units for use within Use Class A1 – Undetermined

## **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 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 is a full planning application which seeks planning permission for a mix of A3, A4 and A5 food and drink uses comprising of the following:

- A restaurant/public house (Use Class A3/A4) with a floor area of 600sqm;
- 1no. drive through unit (Use Class A5) with a floor area of 305 sqm;

- 2no. restaurant/take away units (Use Class A3/A5 with floor areas of 140sqm and 98 sqm;
- A new electricity substation in the north west corner of the site.

The submitted site layout shows that the public house/restaurant will be located close to the mushroom roundabout on the eastern most part of the site. Units A, B and C are sited in one block to the west of the site and facing Sycamore Road/Fitzwilliam Road.

The proposed block of three units is an 'L' shaped building which has one larger unit to the north of the block comprising of the drive thru restaurant. The elevations are relatively modern and comprise of a single storey unit and 2no. two storey units. The roof has an unusual design with two separate sloping roof 'towers' including a cantilever design to the front of the block. The main/front elevation of the 3 unit block faces to the east and into the site. This elevation consists of a large area of glazing, the north facing elevation consists of a typical drive thru with collection and payment windows and an access for vehicles runs between the building and the site boundary. The materials include red brick, through colour render panels and aluminium glazing. The roof 'towers' consist of Kingspan cladding.

The pub/restaurant building is located on the most visually prominent part of the site on the mushroom roundabout and consists of a more traditional building of two storey and single storey elements. The design includes pitched roofs to all elements and traditional features including chimneys and domestic scale windows and door canopies. The materials include timber framing with render panels, render and facing brickwork.

In addition a small substation is proposed to the north west corner of the site, this comprises a building of approximately 14 square metres with a low pitched roof and cabinet doors in one elevation. It is proposed to construct the substation from brickwork.

A total of 106 car parking spaces plus 6 disabled spaces are proposed within the site (80 spaces for the public house/restaurant (plus 3no. disabled spaces) and 26 (plus 3no. disabled spaces) for the 3 units).

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

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF

## UDP Policies

### EC3.3 Other Development within Business and Industrial Areas

#### Core Strategy Policies

CS9 'Transforming Rotherham's Economy'

CS12 'Managing Change in Rotherham's Retail and Service Centres'

CS14 'Accessible Places and Managing Demand for Travel'

CS28 'Sustainable Design'

#### **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 has been advertised by way of site notice and letters to neighbouring properties. No representations have been received

#### **Consultations**

Neighbourhood and Adult Services (Environmental Health) – No comments;  
Neighbourhood and Adult Services (Contaminated Land) – No objection subject to conditions;

Streetpride (Transportation Unit) –No objections subject to conditions;

South Yorkshire Passenger Transport Executive – No objections;

Canal and River Trust – no comments;

Yorkshire Water – 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.

Paragraph 14 of the NPPF states that: "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted."

The main considerations in the determination of this application are:

- Principle
- Design, Scale and Visual Amenity
- Highway Safety

### Principle

The application site lies within an area allocated for Industrial and Business Use in the Unitary Development Plan. UDP Policies EC3.1 (Land Identified for Industrial and Business Use) and EC3.3 (Other Development in Business and Industrial Areas) are not superseded by the Local Plan Core Strategy document and therefore remain as part of the Development Plan and therefore valid in the consideration of this application (in accordance with Paragraph 14 of the NPPF).

UDP Policy EC3.1 states that "Within areas allocated on the Proposals Map for industrial and business use, development proposals falling within Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order, 1987 will be acceptable. Therefore a retail proposal does not accord with this policy.

Policy EC3.3 states that: "Within the sites allocated for industrial and business use on the Proposals Map, other development will be accepted, subject to no adverse effect on the character of the area or on residential amenity, adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development and compatibility with adjacent existing and proposed land uses, where such development can be shown to

be ancillary to the primary use of the area, or would provide significant employment and it can be shown that: (i) there are no suitable alternative locations available for the proposed development, (ii) no land-use conflicts are likely to arise from the proposed development, and (iii) the proposal significantly increases the range and quality of employment opportunities in the area.”

The applicant’s supporting information states that the above policies are out of date and that the Local Plan Sites and Policies document is not sufficiently progressed to be considered to hold significant weight. It is therefore argued in the supporting statement that the last use of the site was as a car showroom (not economic development) and the surrounding area is not in use for industrial and business use. The applicant therefore considers that industrial and business use of the site has ceased.

It is accepted that the site has been vacant for a number of years following the demolition of the car showroom which previously occupied it and it is also agreed that marketing may be challenged; however it is clear that primary evidence through actual marketing has not been obtained.

Notwithstanding that, it is considered that proposed food and drink uses on this site would provide significant employment opportunities (49 full time positions and 18 part time). It should be noted that the Council do not consider that the site has no future employment prospects over the longer term, and it is clear that the immediate prospects of the site’s re-use have not been tested through marketing, however it is not considered that a refusal could be made based on the loss of employment land in this instance as there is an adequate supply of land within the Borough.

It is acknowledged that the UDP Retail policies are out-of-date and that greater weight should be given to the Core Strategy and NPPF. The application site is in an out of-centre location and therefore to comply with the NPPF the proposed development must satisfy the sequential test and the impact test in relation to investment and the vitality and viability of centres.

This application seeks permission for a mix of food and drink uses comprising of public house/restaurants (Use Class A3/A4) and hot food uses (Use Class A5). The restaurant element of the proposed development is considered to be a main town centre use and therefore Paragraphs 24-27 of the NPPF and Core Strategy Policy CS12 are applicable.

Core Strategy Policy CS12 states that:

“The Sequential Approach

Proposals for town centre uses on the edge of or outside of designated centres will only be permitted where it can be demonstrated that:

a. sites within and then on the edge of town, district or local centres have been assessed and it can be demonstrated that they are not available, suitable or viable for the proposed development, and then

b. In the case of bulky goods floorspace, the availability, suitability and viability of vacant premises in retail parks to accommodate the proposed development has been assessed.

#### Impact Assessment

Proposals for retail, leisure or office uses of 500 sq m gross or above, on the edge of or outside of designated centres, must be accompanied by an assessment of

- c. the impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area of the proposal; and
- d. the impact of the proposal on the vitality and viability of centres, including local consumer choice and trade.

Applicants should agree with the Local Planning Authority the scope of the evidence and analysis to be submitted to ensure that this is proportionate to the scale and nature of the proposal.”

#### Sequential Test

Paragraph 24 of the NPPF states that: “Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.”

Given the scale of the proposed development, its location and in accordance with the retail centre hierarchy contained within Policy CS12 of the Core Strategy the catchment has been limited to Rotherham Town Centre and its edge of centre sites.

The findings within the sequential test that there are no sites of a suitable size available for the development within Rotherham Town Centre or on the edge of the Centre are accepted following consultation with the Council’s Forward Planning department. It is also accepted that there are no more sequentially preferable edge of centre sites between this site and the town centre.

#### Impact Assessment

Paragraph 26 of the NPPF goes on to state that: “When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

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

In assessing the likely trade draw of the proposed development the area of search is limited to Rotherham town centre as the proposed development is of a scale which is considered to be appropriate as it is considered that there are no other centre within a realistic catchment area containing any similar scale developments on which there would be a likely impact.

Firstly looking at the impact on in centre investment, only one planned investment for food and drink uses has been identified (RB2014/0061 – Change of use to hot food takeaway at 10 Upper Milgate, Rotherham). This planned investment is small in scale and services the existing centre and compliments other night time economy uses. It is argued to draw on a wholly different catchment than the proposed, being located in a mixed use area and servicing the surrounding residential and employment uses. It is not considered that there would be any impact on this planned investment.

Turning to impact on in centre trade, the supporting information states that the proposed development is not considered to have any detrimental impact on Rotherham Town Centre. It is argued that the two retail locations are different in character and therefore customers. The supporting information states that Rotherham town centre is lacking in comparison goods retailers but has a strong service provision including a range of restaurants, cafes and bars which play a complimentary role but are no key attractors. The proposed development is not considered to compete directly with these service users.

Overall, given the submitted information the Council consider that there are no sequentially preferable sites for the proposed development and it would not have an impact on the vitality and viability of Rotherham town centre or any other planned investment.

Design, Scale, Layout and Impact on 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 CS28 of the Core Strategy aims to ensure that: Design should take all opportunities to improve the character and quality of an area and the way it functions.”

The proposed development consists of two distinct elements, the first is a large pub/restaurant building to be sited on the corner of the site adjacent to the Mushroom roundabout. This is a traditional design, two storey building which has a mock Tudor design typical of a public house/restaurant by the specific operator. The building has two storey and single storey design with a mix of hipped and gable roofs. The materials to be used in the construction consist of brickwork and render.

The second element is a row of three units to be used as drive-through restaurant/takeaway and restaurant/takeaway uses (Use Class A3/A5). These buildings are set back from Fitzwilliam Road and are sited close to Sycamore Road and the northern boundary of the site. These units have a more unusual design forming an 'L' shape building. The largest of the units is to be occupied by KFC and has a drive-through located on the north facing elevation with the associated road running around the periphery of the building and site. The two smaller units are two storeys and have a mono-pitch roof design. The ground floor level of the units is proposed to be constructed predominantly of brickwork with the first floor being clad in Kingspan cladding with a clad cantilever design to the mono-pitch roof. The larger KFC unit provides the building with its 'L' shape and the projection has its own individual mono-pitch roof which is also proposed to be clad but in a different material to the first floor of the other units. There are no windows at first floor in the KFC unit.

The main elevation containing the entrances to the units faces into the site (to the east) and on to the car parking area. The elevation facing Fitzwilliam Road consists of a window into Unit One and mock window features in the remainder of the elevation which will consist of through colour render panels (a detail which is also evident on the other side and rear elevations).

The area surrounding the application site consists of a wide range of uses and types of building, to the north of the application site is a large industrial type building which is used as a bingo hall, this building consists of brickwork at ground floor level and blue profiled cladding at first floor level. To the south west is a brick built retail building which is located off Sycamore Road. Beyond this are industrial buildings on Eastwood Industrial Estate. To the east on the opposite side of Aldwarke Lane is the retail complex consisting of a



large Asda superstore, associated petrol station and McDonalds takeaway, these buildings are set at a lower level and consists of modern buildings of designs typical of the occupiers. On the opposite side of Fitzwilliam Road is a single storey building which is vacant and was last used as a factory, beyond this is the Mushroom car garage which is a modern building.

It should also be noted that the application site at present consists of a vacant area of land which has a derelict appearance consisting of hardstanding and low barriers. The development of the site is therefore, in itself considered to be a benefit to the surrounding area by bringing the site back into use.

It is clear that there is no definitive street scene in this area and there is a wide range of building types. Notwithstanding that, the application site occupies a prominent position on a key route into Rotherham and therefore the design on the building should be of a high quality. The proposed public house/restaurant which is to be sited on the corner of the site close to the roundabout will result in the remainder of the site being obscured to some extent from many of the vantage points around the Mushroom roundabout. This building has a traditional design and although large in scale it has a somewhat domestic appearance with two storey and single storey elements. The building design is considered to be of a high quality and whilst it is typical of a public house by the specific operator it is a design which is often seen in locations similar to this one on key routes into town centres.

The proposed development is therefore considered to be of an acceptable design for this location given the lack of design direction offered from any surrounding buildings.

The takeaway buildings which are located close to the northern boundary of the site will be most visible from Fitzwilliam Road where they will be seen in the context of the bingo hall to the north of the application site. It is accepted that this building has an unusual and somewhat contemporary design especially taking account of the design of the roof. Having said that, bearing in mind the unusual appearance of the building it is considered to be an appropriate location to site such a building. Overall, it is considered that the all of the materials to be used in the construction of the building are evident in the surrounding area including brickwork and cladding and bearing that in mind the proposed buildings are acceptable in terms of their scale, design and massing.

Whilst the two elements of the development are relatively different in terms of their design, it is considered that this location where there is a real mix in terms of existing building design and materials is appropriate for such a development. Whilst the design of the buildings is different, there are hints in the use of materials to link the two developments (for example the use of brickwork at ground floor level). Furthermore, whilst the buildings share a site, they are located to some extent in different street scenes with the public house being located in the most prominent position on the adjacent roundabout and the restaurant/takeaway units being set back from Fitzwilliam Road close to the northern boundary.

Taking all of the above information into account, it is considered that the development of this will improve its appearance and the immediate locality and whilst the two elements of the development differ in terms of their design, the location is considered to be appropriate for a more remarkable development of this type. Taken individually both elements of the development are considered to be of a high standard of design and of an appropriate scale and mass. It is therefore considered that the proposed development complies with Policy CS28 and the NPPF.

### Highway Safety

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.”

Core Strategy Policy CS14 states that: “The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behaviour. Accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by:

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- b. Enabling walking and cycling to be used for shorter trips and for links to public transport interchanges.
- c. Reducing car parking provision in town centre and other accessible sites if public transport and other sustainable modes can accommodate travel but not to an extent where the town centre is unattractive when compared to out of town shopping centres.
- d. Set thresholds where existing and future employers and institutions will need to adopt Travel Plans or Area Travel Plans as part of a programme of sustainable transport promotion.
- e. The use of maximum parking standards for non-residential developments aimed at reducing the number of car trips to and from them.

- f. Adopting car parking policies for vehicles and bicycles in accordance to national guidelines that support and complement public transport and the introduction of sustainable travel modes.
- g. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed.
- h. The safeguarding of suitable land for the provision of transport infrastructure.
- i. Prohibiting development where this is prejudicial to projects outlined in the Local Transport Plan or for any other transport proposals. Land to be safeguarded will be contained in specific transport proposals, the Sites and Policies document or other Local Development Plan Documents as appropriate.
- j. Implementing the Public Rights of Way Improvement Plan and maximising the use of the Public Rights Of Way network and other routes such as canal towpaths and disused railway lines for local transport connections on foot and by bicycle.
- k. Not allowing new development in Air Quality Management Areas unless traffic and air quality impacts are appropriately mitigated.
- l. Promoting Park and Ride where other sustainable travel choices cannot deliver similar benefits.
- m. Maintaining and improving School Travel Plans to manage demand for travel to and from schools and colleges.

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 application site is considered to be in a sustainable location where there is excellent accessibility to public transport. To further improve sustainability an additional section of footpath has been included within the development to improve pedestrian access to Units A-C and to Fitzwilliam Road.

Traffic data was obtained from the Council in relation to the Mushroom roundabout which identified the weekday am and pm peak hours as 07:45 to 08:45 and 16:00 to 17:00 hours respectively. The survey data (2012) was uplifted to 2014 levels using local traffic growth figures. A specialised database was used to establish average pm peak hour trips for each of the proposed uses. It is anticipated that 70% of trips will not be new to the network (i.e. pass by trips).

In terms of the impact on traffic, a comparison of traffic flows was undertaken in order to identify the impact of the proposed development during critical peak hours. The development is not expected to have an impact during the peak due to later customer opening times. The Transport Statement indicates that the impact would be largely confined to the A630 Fitzwilliam Road approach, with a small increase (5.1%) during the am peak hour. The impact on other approaches would be less than 1%. The 5.1% impact is considered further and it is demonstrated that the impact of this additional traffic on the operation of the bus lane in A630 Fitzwilliam Road is likely to be minimal.

The Transport Assessment considers further the operation of the existing access from Aldwarke Lane and concludes that the potential queue length of 50m is likely to be adequate in the event of a blockage at the first internal parking bay.

The provision of 114 car parking spaces accords with the Council's Standards and in addition a total of 13no. Sheffield style cycle stands are to be provided. In addition, a Travel Plan has been submitted for the proposed development which meets the Council's requirements.

The information provided is considered to be sound and demonstrates that the development is unlikely to have a materially adverse impact in highway terms. Accordingly, the development is considered to accord with CS14 and the NPPF.

## **Conclusion**

In conclusion it is considered that the proposed development is acceptable in principle and would not have a detrimental impact on Rotherham Town Centre or any existing or planned investment. Furthermore, the design and scale of the development is considered to be appropriate in this location and would not result in a material impact on the existing highway network.

It is therefore considered that the proposed development complies with the above mentioned policies.

## **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)

Drawing numbers

C991543 Rev B

0000/2013/A101/13.0069 Rev SK02/D

0000/2013/A200/F13.0069 Rev SK02/A

3641-101 Rev D

3641/102 Rev A

3641-103 Rev A  
(received 19 May 2014 and 26 June 2014)

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 that phase of 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'.

Highways

04

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

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

The area shall thereafter be maintained in a working condition.

Reason A

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.

05

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

Reason

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

06

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

Reason

In order to promote sustainable transport choices.

07

Prior to any phase of the development being brought into use, details of signs and road markings to be provided at the access from Aldwarke Lane i.e. "In Only" and "No Exit" shall be submitted to and approved by the LPA and the approved details shall be implemented and retained in perpetuity.

Reason

In the interest of highway safety.

### Drainage

08

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the live water mains, which cross the site.

Reason

In order to allow sufficient access for maintenance and repair work at all times.

09

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 3.0 (three ) metres either side of the centre line of the 225mm sewers, which cross the site.

Reason

In order to allow sufficient access for maintenance and repair work at all times.

10

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 5.0 (five) metres either side of the centre line of the 525mm sewer, which cross the site.

Reason

In order to allow sufficient access for maintenance and repair work at all times.

11

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 6.0 (six point five) metres either side of the centre line of the 1500mm sewer, which cross the site.

Reason

In order to allow sufficient access for maintenance and repair work at all times.

12

Prior to the commencement of each phase of development details of the proposed means of disposal of foul and surface water drainage (for that phase), including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority.

Reason

To ensure that the development can be properly drained.

13

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 for each phase of the development and no buildings within each phase shall be occupied or brought into use prior to completion of the approved foul drainage works for that phase.

Reason

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

14

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

Reason

In the interest of satisfactory drainage.

## Contaminated Land

15

Prior to the commencement of development a detailed intrusive site investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 – 4).

### Reason

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

16

Prior to the commencement of development ground gas monitoring shall be undertaken to determine the ground gassing regime at low and falling atmospheric pressure conditions in accordance with CIRIA C665 – Assessing Risks Posed by Hazardous Ground Gases to Buildings. This will enable a current gas risk assessment to be undertaken, to determine if gas protection measures are required for the proposed development. If gas protection measures are required for the site, these will need to be agreed in writing by the Local Authority prior to development commencing.

### 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.

17

Subject to the findings of the report required by Condition 16 above, a Remediation Method Statement shall be provided and approved by this 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. 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.

18

Prior to the occupation of the units, 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. Following the placement of any subsoils/topsoils in all garden and soft landscaping areas, validation of materials placed will be required to confirm that soils of sufficient quality and quantity have been placed.

#### 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.

19

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.

20

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

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

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

Reason

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

21

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'.

## 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>RB2014/0756</b>
<b>Proposal and Location</b>	Replacement of existing raised patio and wall with new raised patio and wall at 2 Blenheim Close Bramley
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

This application relates to a detached bungalow which is located in a residential area of Bramley, the immediate area is characterised by similar properties which have been constructed on relatively small plots of land with minimal rear garden areas and open plan front gardens.

The property stands in an elevated position in relation to the adjacent dwelling at 64 Belvedere Parade whose rear boundary abuts the side boundary of the application site. This boundary is screened by a close boarded fence which is between 1.6m (adjacent to the dwelling) and 1.8m (at the bottom of the applicants garden) in height

The north eastern side boundary adjacent to the rear garden of No. 4 Blenheim Close is screened for the most part by the applicant's detached garage.

## **Background**

There is no relevant planning history relating to this site since the property was constructed in the late 1970's.

It was brought to the Council's attention in May this year that a new raised patio had been erected without planning permission. An enforcement officer visited the site and advised the owners that planning permission was required as the raised patio was over 300mm in height and advised them to submit an application.

## **Proposal**

The application seeks full planning approval for the recently constructed raised patio and wall which the applicants have stated replaces a previous wall and patio which was in an unsafe condition.

The submitted plans indicate that the original patio was rectangular in shape and was located to the rear of the dwelling, set in some 2.7 metres from the shared boundary, extending out approximately 2.7 metres from the rear elevation of the bungalow and with a width of approximately 6.8 metres. It was raised approximately 0.45 metres above the garden area and was enclosed by a low brick wall, with steps leading down to the garden.

The replacement patio extends out between 2.6 – 3m from the bungalow and has a width of approximately 7.6 metres. It is curved at the end and is located approximately 1.2 metres from the side boundary. The overall height above the garden level has been increased to approximately 0.7 metres from the garden level, and the patio is enclosed by a wall, 0.9 metres in height, with curved steps down to the garden level.

## **Development Plan Allocation and Policy**

The property is allocated for residential use in the adopted Unitary Development Plan.

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

Policy CS28 Sustainable Design of the Core Strategy is considered to be relevant in the determination of this proposal.

## **Other Material Considerations**

The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

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

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

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

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

The 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 individual letters to adjacent occupiers and letters of objection have been received from the adjacent occupier at No. 64 Belvedere Parade, as well as one from the objector's gardener. The objections can be summarised as follows:

- Loss of privacy due to feeling overlooked and intimidated.
- The patio was constructed without planning permission and should therefore be taken down.
- The new patio is completely different to the previous one.
- Raising two fence panels will not alleviate the problem as they could still look over the adjacent panels.
- Raising two panels only will look out of place, the whole fence along that side should be raised.

Other non-planning objections have been received relating to there being a 'history' between the neighbours and the objector feeling intimidated.

## **Consultations**

Streetpride (Transportation & Highways): Raise no objection in a highway context.

## **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 application seeks full planning permission for the addition of the recently constructed raised patio to the rear of a residential property within a residentially allocated area, therefore the principle of the proposal is considered to be acceptable.

Other matters to be considered as amounting to material considerations in the determination of this application include:

- The visual impact on the host dwelling and the locality.
- The impact on adjacent occupiers.

### Visual impact on host dwelling and the locality:

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

Design should take all opportunities to improve the character and quality of an area and the way it functions.”

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

The National Planning Policy Guidance (March 2014), notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations.

Local planning authorities are required to take design into consideration and should refuse permission for development of poor design.”

It is considered that in terms of its design, size and position the raised patio is an appropriate addition to a residential property and whilst it has not been constructed in materials to match the host dwelling it is not visible in the streetscene or from any public vantage point and is, therefore, not considered to be detrimental to the visual amenity of the area.

As such it is considered to be in accordance with the policies and guidance as set out above.

Residential amenity issues:

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

The Council’s Interim Planning Guidance - ‘Householder Design Guide,’ advises that “Balconies, decking and windows serving habitable rooms such as kitchens, living rooms and bedrooms should be sited so that they do not directly look into the habitable windows of adjacent houses or their private gardens.”

The property is located in a slightly elevated position in relation to the properties on Belvedere Parade and the raised patio is within 1.2 metres of the side boundary which forms the rear boundary of No. 64 Belvedere Parade. The view from the end of the patio currently affords a clear view down into the bottom section of the rear garden to the adjacent property over the existing fence.

Objections have been submitted from the occupier of 64 Belvedere Parade which relate to feeling overlooked by the applicant's use of the new patio area. This is considered to be a valid objection and in consideration of this the applicants have suggested raising the height of two existing fence panels adjacent to the side of the patio by 0.4m to an overall height of 2 metres to alleviate the problem. This has been demonstrated on site and it is considered that this proposal would significantly reduce the potential overlooking of the majority of No. 64's rear garden.

However the neighbour still has concerns and has requested that the whole fence is raised along her rear boundary. This is not considered to be an appropriate condition in relation to this application as any existing overlooking issues are not the direct result of the construction of the raised patio and any overlooking from the raised patio area would be at an oblique angle.

Taking all of the above into account it is considered that the already constructed patio area, subject to the recommended condition requiring the raising of the two fence panels adjacent to the patio, would not result in an unacceptable level of overlooking to the adjacent occupiers.

## **Conclusion**

In conclusion, it is considered that the already constructed raised patio is acceptable in terms of design and subject to the recommended condition would not result in an unacceptable level of overlooking to the adjacent occupiers.

The application is therefore recommended for approval subject to the suggested conditions set out below.

## **Conditions**

01

Within one month of the date of this permission the height of the fence between points A and B as shown on the attached plan, shall be raised to 2 metres (as measured from the applicant's ground level) and shall thereafter be retained in that position.

Reason

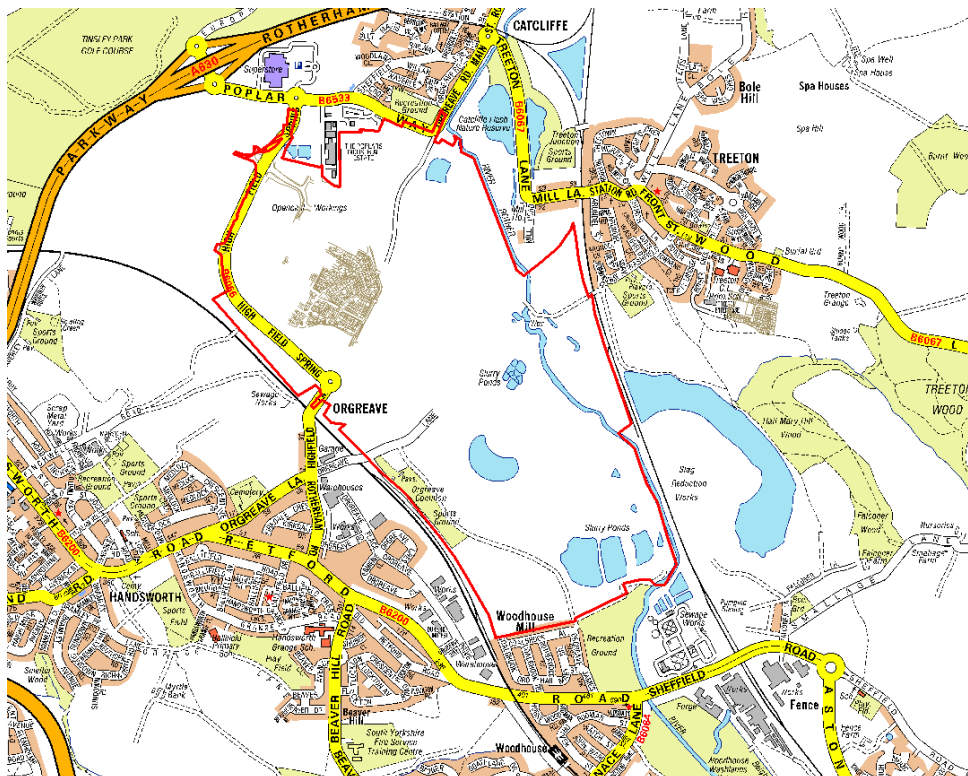
In the interests of the amenity of adjacent occupiers.



## POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2014/0775</b>
<b>Proposal and Location</b>	Application under Section 73 for a minor material amendment to vary conditions 01-06, 08, 12-15, 18, 19, 25, 33, 35, 43, 44, 47 and 48 imposed by RB2012/1428 (Outline application for Waverley New Community) including alterations to the Design & Access Statement & Parameter Plans, the Surface Water Strategy, and with an increase in the trigger points for the submission of an alternative transport scheme to the Bus Rapid Transit and for improvements to the B6066 High Field Spring/Brunel Way.
<b>Recommendation</b>	<p>A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the same obligations as was previously secured through Planning Permission RB2012/1428.</p> <p>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the conditions outlined below</p>



## **Site Description & Location**

The application site occupies an area of approximately 230 hectares and comprises the major part of the former Orgreave opencast mining site. Opencast mining operations ceased in January 2006 and following restoration construction has commenced on the new community comprising of approximately 150 dwellings to date.

To the north of the site is 20 hectares of land known as Highfield Commercial and beyond is the Advanced Manufacturing Park (AMP) which is approximately 40 hectares in area. Together the separate developments form a part of the overall Waverley site.

The site is located equidistance from Rotherham and Sheffield town and city centres and is currently primarily accessed off the Sheffield Parkway. It is surrounded by the outlying villages of Catcliffe to the northeast, Treeton to the east, Orgreave and Woodhouse Mill to the south and Handsworth to the west. The site is bound to the east in part by the River Rother and the Rotherham/Chesterfield freight railway line, to the south by the Cranbrook housing estate and to the southwest by the Sheffield to Lincoln railway. The northern boundary abuts the Highfield Commercial development site except for an access to the Sheffield Parkway.

## **Background**

The site has an extensive history of coal mining and associated industrial activity dating back over 200 years. In conjunction with coal mining taking place, a coke works and bio product plant was built in 1919 and operated until its closure in 1990. Since then a number of planning applications have been submitted for the reclamation and remediation of the site.

Following completion of the remediation works, a number of applications were submitted relating to a new community, these are listed as follows:

- RB2008/1372: Outline application with all matters reserved except for the means of access for a new community comprising residential (3890 units) commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, cultural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting). - GRANTED CONDITIONALLY on 16/03/2011

- RB2011/1296: Application under S73 for the continuation of outline application with all matters reserved except for the means of access for a new community comprising residential (3890 units) commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, cultural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting) with variation to Conditions 5, 6, 17, 18, 29 (imposed by RB2008/1372) - GRANTED CONDITIONALLY on 30/11/2011
- RB2011/1538: Details of the erection of 66 No. dwellings (reserved by outline RB2008/1372) – GRANTED CONDITIONALLY on 17/01/2012
- RB2011/1536: Details of the erection of 96 No. dwellings (reserved by outline RB2008/1372) – GRANTED CONDITIONALLY on 17/01/2012
- RB2011/1521: Details of the erection of 89 No. dwellings (reserved by outline RB2008/1372) – GRANTED CONDITIONALLY on 17/01/2012
- RB2012/0096: Non-material amendment to application RB2011/1296 to include amended wording to Condition 29 – GRANTED CONDITIONALLY – 23/02/2012
- RB2012/1428: Application under S73 for the continuation of outline application with all matters reserved except for the means of access for a new community comprising residential (3890) units commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, culutural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting) with variation to Condition 26 of RB2011/1296 to increase the trigger point for the implementation of improvements to the A630 Parkway/B6533 Poplar Way/Europa Way junction including details of the works to be undertaken. - GRANTED CONDITIONALLY ON 26/04/2013

- RB2013/0362: Substitution of house types to include changes from 11 no. detached properties; to 2 No. detached and 14 No. semi-detached properties, which includes the addition of 5 extra dwellings to those previously approved under RB20011/1521 – GRANTED CONDITIONALLY on 01/07/2013
- RB2013/0584: Non-material amendment to application RB2012/1428 to include amendments to Conditions 03, 04, 26 and 48 - GRANTED CONDITIONALLY on 26/09/2013
- RB2013/0663: Details of the construction of a road, Highfield Lane (reserved by outline RB2012/1428) – GRANTED CONDITIONALLY on 22/07/2013
- RB2013/0862: Provision of drainage infrastructure works – GRANTED CONDITIONALLY on 20/09/2013
- RB2013/1145: Provision of drainage infrastructure works – GRANTED CONDITIONALLY on 27/11/2013
- RB2013/1496: Non-material amendment to RB2012/1428 to change wording of Condition 48 to allow Masterplan Parameters to be updated – GRANTED CONDITIONALLY on 27/11/2013
- RB2013/1441: Provision of drainage infrastructure works – GRANTED CONDITIONALLY on 18/12/2013

### Environmental Impact Assessment

The proposed development falls within Schedule 2 (10)b 'Urban Development Project' of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. With regards to Column 2, the site exceeds the 0.5ha threshold.

The proposed development is considered to have the potential to give rise to significant environmental effects. Accordingly, the proposed development is regarded as EIA development and is subject of an environmental impact assessment (EIA) under the EIA Regulations.

### **Proposal**

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

Subsequent to this two separate applications for minor material amendments (Section 73) were approved by Members of the Planning Board in November 2011 and April 2013. These applications included variations to conditions relating primarily to phasing, density and transportation issues.

This current application is also made under Section 73 of the Town and Country Planning Act and seeks to amend the approved parameter plans and Design and Access Statement to restructure the design framework of the permission to allow development to continue on site. Specifically a Masterplan Development Framework and Principles Document has been submitted to replace the previously approved Design and Access Statement. This document clarifies the changes proposed to the next phase of development and explains how it ties in with the wider new community scheme. The document does not amend the fundamental outputs of the development such as quantum of development but will update key urban design and spatial design principles to reflect the first phases of development already built on site and provides a more up to date framework within which to consider future reserved matters applications. The amendments sought are principally in relation to:

- The replacement of the previously approved Design and Access Statement and Parameter Plans with a Masterplan Development Framework and Principles Document;
- Update the Outline Surface Water Strategy to address new legislation and policy implemented by National Government since the original approval in 2010;
- Amendment to condition No. 25 of RB2012/1428 relating to the trigger point for the implementation of works to the B6066 Highfield Spring/Brunel Way from occupation of the 550<sup>th</sup> dwelling to occupation of the 1,000<sup>th</sup> dwelling; and
- Amendment to condition No. 33 of RB2012/1428 relating to the trigger point for the provision of bus services from 24 months after occupation of the first dwelling to occupation of the 500<sup>th</sup> dwelling;

A Design Code for the Waverley Central area is also included in the application. Design Codes for Phase 1 of the development were a requirement of a condition attached to the outline consent and therefore discharged under delegated powers. Despite this, in order to facilitate the development of this phase within the timescales required by Harworth Estates, the Design Code for the Waverley Central area forms part of this application.

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

- Supporting Statement provides an overview of the amendments sought as part of the application and lists the conditions that require amendments to take account of these amendments.

- Environmental Statement Update addresses the change in legislation since the preparation and submission of the original outline application in 2009 and confirms that this current Section 73 application does not amend the fundamental outputs of the existing approved development such as the quantum of development, but will update the key urban design and spatial design principles of the scheme to reflect the first stages of development already built on site.
- Master Plan Development Framework and Principles Document has been produced to replace the previously approved Design and Access Statement and Parameter Plans and provides a summary of and design rationale for a series of amendments to the Master Plan Parameter Plans and Design Principles approved under RB2008/1372 and subsequently amended via a series of S73 applications to allow the first phases (1a – 1d) to be brought forward. The main purpose of the document is to provide greater clarity on the spatial vision and anticipated end state of the development at this current point in time and to reconcile and clearly articulate the development structure of the development built and committed to date with the intended development structure going forward.
- Surface Water Strategy Clarification Strategy provides an update on the previously approved strategy addressing new legislation and policy, implemented by national Government since the planning approval and the physical progress on the implementation of the approved Strategy.
- Transport Note addresses the rationale for uplifting the trigger points for the implementation of a public transport scheme and improvement works to the B6066 junction and provides the methodology behind the conclusions.

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

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is split into three allocations in the adopted UDP; Industry and Business, White Land and Green Belt and the following Policies are considered to be relevant.

UDP Policies:

HG5 'The Residential Environment'

Core Strategy Policies:

CS1 'Delivering Rotherham's Spatial Strategy'  
CS2 'Delivering Development on Major Sites'  
CS14 'Accessible Places and Managing Demand for Travel'  
CS19 'Green Infrastructure'  
CS21 'Landscape'  
CS28 'Sustainable Design'

### **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)."

### **Publicity**

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

### **Consultations**

Streetpride (Transportation and Highways) have assessed the Transport Capacity Review Note and Public Transport Note and confirm that the conclusions are acceptable and as such no objections are made to the variations to conditions 25 and 33. The details contained within the Masterplan Development Framework and Principles document have also been reviewed and no objections are raised to the replacement of the originally approved Design and Access Statement with this new document.

Streetpride (Ecology) have confirmed that there are no significant ecological issues resulting from the proposed application as the principle of the Waverley New Community and Waverley Park schemes have been previously considered and supported however has made a number of minor points relating to green roofs and the extent of open swales.

Streetpride (Landscape) are generally supportive of the proposals.

Streetpride (Drainage) raise no objections to the information submitted as part of the amendment to the Surface Water Strategy.

Environmental Health (Contaminated Land) raise no objections to the proposals.

SYLTE raise no objections in principle to the amendments to conditions subject to some minor changes to the wording.

Highways Agency raise no objections to the proposals.

Environment Agency have no objections to the proposals providing that Rotherham MBC Drainage Department are consulted and satisfied with any changes to the Outline Surface Water Strategy for the site.

Natural England has no comments to make on the proposals.

Sport England has no comments to make other than in respect of the proposed alterations to the overall size of the areas designated for the school grounds.

Yorkshire Wildlife Trust raise no objections to the proposals, however wish to echo comments made by the Council's Ecologist.

Sheffield and Rotherham Wildlife Trust suggest that drainage features previously identified as open swales should be retained as such. Access to lake 3 should be limited to minimise disturbance to wildlife, green roofs should apply to all development and not just non-residential and a revised management plan for the open space should be submitted to support the application.

Canal and River Trust do not wish to comment on the application.

Network Rail have confirmed that they have no observations to make.

SYMAS raise no objections to the proposals due to the mining legacy on site.

Yorkshire Water note that all surface water drains to local watercourses and makes it clear that if the developer is looking to have new sewers included in a sewer adoption agreement, they should be designed and constructed in accordance with the publication 'Sewers for Adoption'.

## **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.

Having regard to the above, the main considerations in the determination of this application relates to the following:

- Principle of Development
- Issues relating to the substitution of the previously approved Design and Access Statement and Parameter Plans with a Masterplan Development Framework and Principles Document;
- Issues relating to amendments to the previously approved Outline Surface Water Strategy;
- Implications for amending the trigger for improvement works to the B6066 Highfield Spring/Brunel Way junction;
- Implications for amending the trigger point for the delivery of bus services;
- Consideration of the Design Code for Waverley Central; and
- Consideration of the Deed of Variation

#### Principle of Development

Outline planning permission was granted for a new community on 16 March 2011 (RB2008/1372). Subsequent to this two applications have been made under Section 73 (RB2011/1296 & RB2012/1428) which sought to vary conditions attached to the outline permission which related primarily to the phasing and density of the development together with amendments to the trigger point for the implementation of works to the Poplar Way/Europa Way junction. These applications assessed the amendments against the NPPF, which came into effect and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) which the application was originally assessed against.

Since this time the Council's Cabinet recommended that the Council adopt its Core Strategy and whilst it is not due to go to Full Council while the 12th September 2014, upon its approval it will be subsequently submitted to the Secretary of State for independent examination. With this in mind, the weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant and replaces some of the UDP Policies in which the application was originally assessed against.

With this in mind, Core Strategy Policy CS1 is of relevance. This policy identifies Waverley as a Principal Settlement and acknowledges that planning permission has been granted for the creation of a new community of 3900 homes with supporting services and facilities. It goes on to say that the site is expected to deliver 2500 dwellings within the plan period which is 17% of the borough requirement.

This current application does not seek to amend the fundamental outputs of the approved development such as quantum of development or land use and on this basis, the amendments sought are therefore in compliance with the requirements of Policy CS1 of the Core Strategy.

### Issues relating to the substitution of the previously approved Design and Access Statement and Parameter Plans with a Masterplan Development Framework and Principles Document

The original design concept for the Waverley New Community as a whole was articulated in the approved Design and Access Statement (DAS) and Parameter Plans. It described how the master plan provided an integrated mixed-use development, with a good balance between housing types and employment opportunities, with links to the surrounding communities. It further described how a range of density options were considered and was largely based on an average net density of 55dph, with some central and key areas at 75dph. A small number of peripheral blocks were to be developed at 35dph with the Central Bastide being the high density core.

In practice the committed and built development to date is being delivered at lower densities than those originally envisaged due to a change in the housing market. For this reason the approved DAS is no longer consistent with the built and committed development and as a result it has become difficult to make any meaningful connections between the parameter plans and the design principles set out in the DAS.

In order to provide greater clarity on the spatial vision and articulate the structure of the built and intended development it has been necessary to replace the DAS and Parameter Plans with a new Master Plan Framework and Principles Document which will guide future development on the site without altering the fundamental outputs of the approved scheme.

The principal changes to the proposed development include the following:

- Character areas including density of Waverley Central (town houses/ variety of properties)
- Green Infrastructure provision (Highwall Park)
- Movement
- Key Spaces

### Character Areas

Five character areas are proposed to be brought forward to form the revised Waverley Masterplan. These are:

- Waverley Central, including the Mixed Use Area and School 1 (formerly Central Bastide);
- Highfield Spring - North, South and Place (formerly Highfield Spring);
- Waverley Waterside (formerly Urban Waterfront);

- Waverley Gate (formerly Catcliffe Gate); and
- Waverley Riverside (formerly Riverside and the Point).

The boundaries of these new character areas have altered slightly to reflect the revised phasing and development already under construction. The main alteration includes an amendment to the boundary of Waverley Central which now takes in the Mixed Use Centre and part of the land reserved for the Park and Ride but does not include land that is already under construction, now known as Highfield Place.

Waverley Central is discussed in further detail later in the report, however in brief; the area will form the core or heart of the scheme, containing most of the mixed use and community facilities. This concept does not alter the previously approved vision for this character area. Its formalized, gridded arrangement of blocks which will create a higher density area than what is currently being constructed on site is also consistent with the details articulated in the approved Design and Access Statement. However, the proposed density for this area at 30 - 60 dwellings per hectare (dph) falls short of the 55-75dph previously approved. Additionally, it was always envisaged that this area would consist of terraced housing and apartment blocks as opposed to a mix of semi detached and terraced properties with some apartments as proposed.

This amendment is borne primarily as a result of the change in the housing market since the consideration of the original outline application in 2008. National housebuilders are reluctant to construct large amounts of apartments and high density terraced properties as they are not currently desirable to prospective purchases, however they do accept that a small number of these type of properties within a larger development plot are attractive to the market. Every effort has been made to ensure the formalized grid arrangement has been retained so as not to deviate from the original vision for this area and whilst it is acknowledged that the density has been reduced, it is not considered that it will be detrimental to the new community as a whole or deviate from the wider vision for the development as a whole.

### Green Infrastructure Provision

Core Strategy Policy CS19 'Green Infrastructure' states that

'Proposals will be supported which make an overall contribution to the Green Infrastructure network based upon the principles set out below:

1. Securing provision, either on or off site, of an appropriate size, shape, scale and type and having regard to the nature of the development, its impact on the wider network and contribution to the overall quality of the area. CS21 'Landscape' .....

Due to the sheer scale of the proposed development and its relationship with the outlying villages of Catcliffe, Treeton, Orgreave and Handsworth, the provision of informal open space and recreational facilities was considered to be essential in order to create a well planned sustainable community.

Within the original Design and Access Statement, the applicant provided information relating to how the need for informal space could be met on site. This demonstrated that the proposed park to the south of development comprised an area of 88.6ha of open space with an additional 24.6ha of lakes. 42 allotment plots were also secured to the north east of the river and a network of local green spaces and routes throughout the site were also approved.

No alterations are proposed to the provision of these facilities; however it was also proposed to create a formal park area known as Highwall Park. The existence of an area of highwall through the site determined its position and the surrounding built form. Since the approval of the original masterplan which approved its location and width, further site investigations have taken place which has indicated that additional land is available for development. Essentially this means that the width of Highwall Park has been reduced along its entire width from approximately 100m to 70m at its narrowest point, however its focus for play, community events and informal recreation remains unchanged. The main consideration therefore relates to whether the reduction in the overall size of the park will be detrimental to the development as whole.

In this regard Highwall Park runs virtually the entire length of the development from the park and ride facility in the north east to the lakes in the south and incorporates an open drainage feature throughout. Its scale at 8.2 hectares (from 11.4 hectares) remains significant and its reduction in width from an urban design perspective will not be readily noticeable. The park was originally intended to accommodate much of the formal play spaces such as tennis courts, a MUGA and a youth shelter which remains unaltered with the applicant's confirming that the reduction in width will not prevent the siting of these facilities.

Having regard to the above, it is considered that the reduction in the width of Highwall Park will not materially alter the previously approved scheme or affect the validity of the outline planning permission and on that basis the amendment is considered to be acceptable and in accordance with Policy CS19 of the Core Strategy.

## Movement

Paragraphs 56 and 57 of the NPPF states 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 CS28 ‘Sustainable Design’ of the Core Strategy states that:

‘Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.’

The Master Plan proposes the creation of transport links, both within the site and to the surrounding network for pedestrians, cyclists, buses, horse riders and motor vehicles. The Framework document has updated the Transport and Movement Plan which provides the street hierarchy by identifying strategic routes, primary streets, secondary streets, Waverley Walk and tertiary streets.

Each of the aforementioned street types are illustrated in the framework document by means of sections. They show the street widths, garden frontages, on/off street parking areas and street planting. The purpose of these is to articulate the difference between the streets and provide clarity on what the defining characteristics of each street will be in terms of dimensions for building frontages and their interface with the street as well as setbacks for front gardens and street planting. Once approved these sections will provide a starting point for each individual Design Code for the character area in question and will, as a result, support a unified and coherent place (and avoid piecemeal design).

One of the main changes from the original DAS is the replacement of the Central ‘Water Street’ with Waverley Walk. This now forms the main east to west connection between Highfield Commercial and the Lakeside, and is punctuated along its route by Waverley Square, primary schools and key parks and spaces. The original DAS showed this route (albeit along a different alignment) as a water street with ‘swales running along its entire length’, however following site investigations the position of the northwest to southeast drain has had to be adjusted which has resulted in the water street not being able to function in the way it was originally intended.

The replacement Waverley Walk is now depicted as a 'specialist spine' consisting of high quality public realm treatment. Due to its location and length, its width and character varies along the route and the water feature remains to the southern part, extending to the lakeside. This amendment, whilst a deviation from the original masterplan, will provide a unique opportunity to design a high quality street consisting of strong tree/shrub planting, public art and high quality street furniture, all of which will ensure this 'spine' will have a distinctive character and serve its intended function.

Extensive discussions have taken place between the applicant and the LPA regarding the street hierarchy and in particular the associated sections and following amendments, it is considered that the detail shown provides sufficient detail to define the characteristics of each street and create obvious distinctions between different types of streets, thus creating variations in character and increased legibility.

Having regard to all of the above, the detail on street hierarchy and movement contained within the Framework document is considered to be acceptable for the Waverley New Community and in accordance with guidance set out in Paragraphs 56 and 57 of the NPPF and the provisions of Core Strategy policy CS28 'Sustainable Design'.

### Key Spaces

In order to clearly articulate the proposed development it was necessary to identify the key spaces which have a special character and design. These were not identified in the original DAS, therefore their inclusion are a new addition to the proposals.

These spaces have been identified as follows:

- Mixed Use Area
- Central Park
- Eastern School
- Waterfront
- Access through Highwall Park
- Waverley Gate Access Point
- Waverley Gate Amenity Space

Within the Framework document, each space is identified in plan form with a brief written description of the design principles for that area together with photographic examples of how spaces have been achieved elsewhere.

The inclusion of this information provides a clear vision of how each identified space should come forward in the built form and will form an integral part of the design code for the character area in question. It is therefore considered that the proposals will assist in developing a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces in compliance with the provisions of Core Strategy Policy CS28 'Sustainable Design.'

## Issues relating to amendments to the previously approved Outline Surface Water Strategy

The current outline planning permission (RB2012/1428) is supported by an Outline Surface Water Strategy and a condition of this approval requires subsequent reserved matters applications to be in accordance with the details contained within it.

Changes required to the layout and design of the next part of the development as discussed in the preceding paragraphs require minor amendments to the Outline Surface Water Strategy and in support of this current application a Clarification Statement with an accompanying plan has been submitted which addresses the following:

- The S73 application itself;
- New legislation and policy which has been implemented by National Government since the planning approval (Flood and Water Management Act 2010); and
- Physical progress on the implementation of the approved Surface Water Strategy.

The primary updates to the surface water strategy are as follows:

1. The outfall of the regional surface water control provided by the reservoirs has been upgraded. The upgrade provides a pipe of capacity that matches that required by the approved planning application (5 l/s/ha plus an allowance for flows from Handsworth Beck). However, a further adjustable flow control is provided on the outfall, which would allow further reduction in discharge rates should this be considered to be advantageous.
2. Proposals to 'restore' the upper sections of Handsworth Beck within the site, to gravity operation are at the feasibility stage with a view to implementation before April 2015. The proposed solution being developed is for a tunnelled gravity connection located entirely within HE Land.
3. It is recognised that the National SUDS Standards (Schedule 3 of the Flood and Water Management Act) are likely to be implemented in October 2014 (or shortly thereafter) and that these will apply to new planning applications submitted after implementation of Schedule 3. At this site, it is considered that the effect of this will generally be to reduce peak rates of discharge from individual detailed application sites.
4. Areas of the WNC that are currently not developed and which can reasonably drain by gravity into the 'water street' are to include SUDS elements that will discharge into a central swale routed long the 'water street'.

5. It is the intention that development immediately to the west of the 'High Wall Valley' watercourse is brought forward in the near future. However confirmation regarding the route of HS2 is required first. Therefore in advance of the full realisation of the 'High Wall Valley' watercourse it is proposed to drain this area into a temporary watercourse which will convey the flows into the Waverley Reservoir.

Having regard to the above, the Council's Drainage Engineer, Yorkshire Water and the Environment Agency have been consulted and raise no objections to the update. It is therefore considered that the proposals do not amend the fundamental principles of the previously approved strategy and as a result are acceptable as a minor material amendment and in full accordance with the guidance contained within the NPPF.

Implications for amending the trigger for improvement works to the B6066 Highfield Spring/Brunel Way junction

Core Strategy Policy CS15 states that:

'The Key Route and Motorway network will provide efficient access between the main Rotherham Urban Area, Principal Settlements and the regional and national road network. This will be achieved by .....

- b. Improving specific Key Routes to manage congestion including traffic management measures, bus priority and facilities for cyclists and pedestrians.....'

The outline planning permission also requires improvements to the B6066 Highfield Spring/Brunel Way as part of Condition 25 (now condition 19), which is worded as follows:

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

Reason In the interests of highway safety

The applicant's have stated that they consider the works unnecessary at this stage as they are linked to the development of the Park and Ride (BRT) facility whose timescales for delivery are currently uncertain. The Council accepts this claim as it was always envisaged that the Park and Ride (BRT) would be delivered much earlier than is currently forecast and as such was factored into the original forecasts in the previously approved Transport Assessment.



The applicant's have also provided justification for the revised trigger of 'prior to the occupation of the 1001<sup>st</sup> dwelling' in their submitted Transport Note which outlines the steps taken to derive future turning flows for assessment of the Highfield Lane/AMP (south) junction and Highfield Lane/Highfield Spring junction. The purpose of the assessment is to determine the number of dwellings that can be accommodated at Waverley New Community without the need for mitigation works at either of the roundabout junctions.

The assessment is based on a construction rate of 120 dwellings per annum and a recent traffic count predicts movements at AM and PM peak times increasing by approximately 5% between 2013 and 2022 which is the date 10000 dwellings will be reached. Traffic flows associated with the completed AMP including Re-volution and the AMI Training Centre and further employment development on land known as Highfield Commercial were also factored into the assessment which concludes that the junction assessments demonstrate that 1,000 dwellings can be accommodated on the new community site without the need for any immediate mitigation at either junction.

The Council's Transportation Unit and SYPTE have agreed that the methodology used is appropriate in this instance and concur with the applicant's claim that mitigation is not required on the junction of the B6066 Highfield Spring/Brunel Way until the occupation of the 1000<sup>th</sup> dwelling and as such revisions to the condition will not materially alter the previously approved scheme or affect the validity of the outline planning permission and are, as a result considered to be acceptable.

Furthermore, if it is the case that the SYPTE wishes to proceed with the Park and Ride facility (BRT) prior to the occupation of the 1001<sup>st</sup> dwelling, then the S106 Legal Agreement requires the junction to be constructed prior to the facility being brought into use by the public.

Having regard to the above, it is considered that the proposals will be in accordance with Core Strategy Policy CS15 and as such the revised wording of the condition is recommended as follows:

"No more than **1000** No. dwellings shall be occupied on site until the proposed improvement to B6066 Highfield Spring/Brunel Way (AMP North) as indicated on plan No. PO-CE-WYG- 01-SK41 have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning authority"

Reason

In the interests of highway safety

## Implications of amending the trigger point for the delivery of bus services

Core Strategy Policy CS14 'Accessible Places and Managing Demand for Travel' states that:

'The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behaviour. Accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by:

1. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.....'

The current outline planning permission (RB2012/1428) is the subject of a number of conditions which included Condition 33 as set out below:

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

### Reason

In order to promote sustainable transport choices.

To supplement this condition, the Section 106 Legal Agreement requires the developer/landowner to provide £1.5m of contributions over the next 15 years to make public transport improvements. £40,000 of which would become payable in the first phase of any development.

The Bus Rapid Transit (BRT) scheme has been delayed for various reasons and as such has not been implemented by South Yorkshire Transport Executive (SYPTTE). The applicant is under the impression that it is still SYPTTE's intention to proceed but the timescales are not yet fixed. Therefore to allow the SYPTTE further time to bring forward the BRT scheme the applicant's propose to delay the trigger point for the submission of an alternative public transport scheme. In this regard the applicant's propose to revise the trigger point for the submission of a scheme to enhance bus services in the area and link it to the number of dwellings on site.

In support of this proposal, the applicant's have submitted a Transport Note which outlines the justification for doing this. In summary, when the original outline planning application was approved in 2010 it was assumed in the Transport Assessment that the build out of new dwellings would be in the region of 250 per year, therefore after 24 months, the number of dwellings on, site and occupied, would be 500. Now that development on site has commenced, the actual number of dwellings delivered per year is 120 and as

such, the same level of development referred to in Condition 33 would not be achieved until after 48 months.

The applicant therefore proposes to amend the trigger point for the delivery of the public transport scheme and link it to the occupation of 500 dwellings which would be in accordance with the conclusions of the previously approved Transport Assessment. In support of this, the vast majority of the first 500 new dwellings will be within walking distance of existing bus stops on Highfield Spring which are served by both the 32 and A1 services, each providing 2 buses per hour, in each direction, between Rotherham and Sheffield.

Having regard to the above, the Council's Transportation Unit and SYPTTE have assessed the proposals and concur with the conclusions in the Transport Note and as such raise no objections in principle to the amendment to the trigger point. Indeed SYPTTE has secured funding to deliver part of the solution (Parkway prioritisation) towards delivering a mass transit solution (BRT) however timescales associated with it are currently uncertain. SYPTTE therefore suggests a revision to the condition to allow the BRT proposals to be further developed and refined.

Based on the above, it is not considered that the amendment to the trigger point for the submission of a scheme to enhance bus services will alter the previously approved scheme or affect the validity of the outline planning permission and as such it is considered to be in accordance with Policy CS14 of the Core Strategy. It is therefore suggested that the wording of the condition be revised as follows:

If after occupation of the 500th dwelling, the proposal to implement a mass transit scheme to the site (currently referred to as BRT South) is not committed then a comprehensive scheme to enhance bus services in the area, ensuring a range of bus connections between the Waverley site and the wider area shall be submitted and agreed in writing by the Local Planning Authority”

Reason

In order to promote sustainable transport choices.

#### Design Code for Waverley Central

Under the current planning consent, condition 4 requires the submission and approval of a Design Code for each character area prior to the submission of any Reserved Matters application within that area. Under normal circumstances and as previously undertaken, the design codes are determined under delegated powers as a discharge of a condition application, however in this instance, Harworth Estates wish to progress development within the Waverley Central area relatively quickly and have submitted the Design Code for this area as part of this Section 73 application.

The Design Code guides the implementation of future reserved matters applications within each of the areas and requires that these future applications are in full accordance with the details contained within it.

The Waverley Central character area (previously Central Bastide) forms the heart of the new community and contains most of the mixed use and community facilities. This code however focuses on the residential component of the area and comprises the area between the school to the north and central park to the south. It is however worth noting that both the mixed use centre and the school will be the subject of a separate Design Brief which will need to be submitted to the LPA for approval prior to the submission of any reserved matters planning application relating to either.

The concept of the Waverley Central character area consists of three distinct parts:

- Waverley Walk;
- The Edge (Streetside Edge and Parkside Edge); and
- Internal blocks.

The Code describes Waverley Walk as a key street that links the main components of the new community, passing through the heart of Waverley, connecting the local centre and school to the north with the Central Park and Waterfront to the south. It will have a distinct character, typified by a high quality public realm and a distinct semi detached and detached built form. The Code then goes on to describe the building heights as 2 or 2.5 storeys with a regular building line and typically on plot parking with some on street allocated provision. The public realm is key on this street and the Code provides specific requirements relating to tree and shrub species, street widths, boundary treatment and surface material.

The Streetside Edge forms the perimeter of Waverley Central along its interface with streets and buildings. The Code states that there should be a high degree of continuous frontage which will be regular and have a strong rhythm. There will be little variation and a vertical emphasis will give extra height, scale and feature with emphasis on corners. The Code stipulates that this street shall be a mix of terraced properties and apartments with mews parking arrangements and a small number of detached and semi detached properties being possible. The massing and scale will be different to what has been previously consented on Waverley in that it will be predominately 2.5 to 3 storeys with corner blocks slightly larger scale to emphasise a 'book end' effect. The middle section will give the appearance of a continuous block with small gaps and little variation in height. The materials are identified as being red brick as the primary wall material with secondary and tertiary materials including metal cladding, dark red or buff coloured render and timber cladding. The boundary treatment is set as being a low brick wall, consistent in height between 0.3 and 0.6m and front gardens will have a depth of between 2 and 3m. Regular tree planting will be provided within the street and species are identified.

The Parkside Edge forms the perimeter of Waverley Central along its interface with Highwall Park. The code describes this street as a strong linked villa typology which will address the park whilst also providing a continuous enclosure to the edge. The character of the Parkside Edge is defined as having a regular rhythm with distinct unit typology, having little variation with vertical emphasis. The dwellings on this street will consist of link detached properties, generally 3 storeys in height with 1 or 2 storeys for the linked elements. Car parking will be provided on plot and the boundary treatment will consist of a low wall 0.3 to 0.6m in height. The primary materials include red brick with secondary and tertiary materials including dark red brick, metal or timber cladding and white render. Front gardens will have a width of between 2 and 3m and extensive tree planting will take place on the edge of the park.

The Internal Streets comprise the streets behind the Edge and Waverley Walk. These streets will be less formal with a mix of styles and unit types including terraced, semi detached and detached, typically 2 storeys but with some 1.5 and 2.5 storey units. The boundary treatment will also be less formal with soft landscaping and no fences or railings. Vehicular parking will comprise a mix of on plot and on street parking. Again materials will include red or buff coloured brick as the primary material but will also include render and timber cladding. Front gardens may vary from 2 to 5m and tree planting will be provided every 4 spaces where on street parking takes place.

Having regard to the above and after extensive discussions with the applicant's and their advisors it is considered that the Code adequately fulfils its objective in delivering high quality inclusive design as required by the NPPF and Policy CS28 of the Core Strategy and accords with the general principles for this character area as approved in the original outline consent.

Furthermore, the Code also stipulates that a minimum distance of 21 metres should be maintained between rear facing elevations in order to achieve acceptable privacy levels for properties and between rear elevations and gable fronts the distance should be a minimum of 12 metres unless there are strong design reasons for a reduction. These separation distances comply with the Council's guidelines and as such will translate into any applications for Reserved Matters within the Waverley Central Area. Should any application come forward that does not meet these separation distances, the proposals will be assessed on their own merits having regard to design and general amenity issues.

### Deed of Variation

As a result of this application it is necessary to provide a Deed of Variation to link the Section 106 Legal Agreement to this current application. The applicants also wish to amend two elements of the Agreement which include the following:

- Provision of Schools
- Park and Ride Facilities

The notion of revisiting planning obligations is supported by Central Government both within the NPPF and NPPG. The NPPF in particular adds to this by stating at paragraph 173 that:

‘To ensure viability, the cost of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.’

### **Provision of Schools**

There is an obligation under the current Section 106 Agreement to provide 2no, primary schools. With respect to the first school, a plot and a partial contribution of £560,202 must be provided after the occupation of the 400<sup>th</sup> dwelling. A further £5,041,823 is required to be paid after the occupation of the 550<sup>th</sup> dwelling.

These triggers will result in the next consented development parcels triggering the school payment of £5.04m which, the Harworth Estates have confirmed would essentially render any development to these next parcels of land unviable due to cash flow issues and the large infrastructure costs associated with the Waverley site as a whole. Consequently Harworth Estates are applying to amend the trigger for the payment for the first school as follows:

- First 5% of the education contribution after occupation of 550 no. dwellings (£560,202).
- 45% of the education contribution after occupation of 750 no. dwellings (£5,041,823).

Having regard to this proposal, the Council’s Education department have confirmed that ‘primary school aged places have been created temporarily already by the expansion of Brinsworth Howarth J & I School from an admission number of 30 to 45 in FS2 from September 2013 and subsequent FS2 cohorts thereafter until the first Waverley Primary School is constructed. School Organisation are comfortable with the revised trigger points given that the school currently has surplus places in all year groups up to its existing original 30 admission number.

Furthermore, and given the financial and site uncertainties as opposed to several years ago when the original Section 106 Agreement was drafted, the deed of variation will provide assurances to developers, keep the site viable and provide education facilities at a time and scale more appropriate to the current climate.’

The proposed amendments to the trigger points have been reported to the Cabinet Member for Education and Public Health Services who support the proposals in order to keep the Waverley development viable and on that basis it is considered that the amendment to the trigger points for the delivery of monies towards the provision of school 1 is acceptable and will not fundamentally alter the principles of the original outline permission.

### **Park and Ride Facilities**

The original S106 Agreement requires the landowner to reserve an area of land to accommodate a 1000 space Park and Ride facility for a period of 15 years from the date of approval. Following discussions with SYPTE they have confirmed that the Bus Rapid Transit (BRT) Project Board has considered a reduction in the size of the park and ride site and approved the principles of a 500 space design in August 2011.

SYPTE are therefore content with the revised plan showing a reduction in the land to be reserved, on the condition that the land retained for the 500 spaces aligns with the preferred 500 space Park and Ride designs.

This amendment retains the option for a park and ride/BRT facility to be provided on the Waverley site and therefore does not fundamentally alter the outputs of the original outline permission.

### **Conclusion**

The principle of the new community has been previously established however since the determination of the last application under Section 73 significant weight must be given to the Core Strategy. Policy CS1 identifies Waverley as a Principal Settlement and acknowledges that planning permission has been granted for the 3900 homes with supporting services and facilities. This current application does not seek to amend the fundamental outputs of the approved development such as quantum of development or land use and is therefore considered to be acceptable in principle.

The replacement of the Design and Access Statement and Parameter Plans with the Master Plan Development Framework and Principles Document clarifies the changes proposed to the next phase of development and explains how it ties in with the wider new community scheme. The document does not amend the fundamental outputs of the development such as quantum of development but will update key urban design and spatial design principles to reflect the first phases of development already built on site and provides a more up to date framework within which to consider future reserved matters applications. On this basis the replacement of the design and access statement with the Framework Document is considered to be acceptable as it does not amend the fundamental outputs of the approved development.

Having regard to the uplift in trigger points for the delivery of junction improvements and the provision of public transport, adequate justification has been provided to support the amendments which does not alter the previously approved scheme or affect the validity of the outline planning permission.

## **Conditions**

### **01**

Before the commencement of the development of each development plot details of the layout, scale, appearance and landscaping of the relevant development (herein referred to as the reserved matters) shall be submitted to and approved by the Local Planning Authority. The reserved matters shall include the following:

- An Affordable Housing Schedule;
- Details of the mix of dwellings in relation to the number of bedrooms and the proportion of houses and flats, broken down between social rented affordable housing units and shared ownership units;
- Measures to incorporate green roofs in the design as part of proposals for storm water retention and attenuation, energy conservation and biodiversity gain (for non residential development only) where appropriate;
- Noise assessment to ensure the amenity of current and future residents in accordance with BS4142;
- Details of the overland flood routes and a scheme detailing how safe access and egress within and to the outside of the site during a flood event will be achieved; and
- A waste and recycling storage plan, including details of recycling facilities for those items not currently collected at source such as glass and plastic, identifying the facilities to be provided to serve that area of development.

Development shall thereafter be carried out in full accordance with the approved details.

### **Reason**

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

### **02**

#### **DESIGN CODE**

Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the Master Plan Development Framework and Principles Document (August 2014) listed under Condition 39.



#### Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with Policy CS28 'Sustainable Design' of the Core Strategy.

03

No development shall take place on any Code Area as identified in Figure 37 of the Master Plan Development Framework and Principles Document (August 2014) until there has been submitted to and approved in writing by the Local Planning Authority a Design Code (including supporting plan) for the code area in question. The Design Code for the various code areas shall be in accordance with the principles and parameters described and illustrated in the Master Plan Development Framework and Principles Document (August 2014) listed under Condition 39.

#### Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with Policy CS28 'Sustainable Design' of the Core Strategy.

04

The design code for each Code Area as identified in Figure 37 of the Master Plan Development Framework and Principles Document (August 2014) shall include codes for all matters listed below where appropriate:

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

Reason

To ensure high standards of urban design and comprehensively planned development and designed and phased to ensure maximum practical integration between different land uses to accord with Policy CS28 'Sustainable Design' of the Core Strategy.

05

Applications for the approval of Reserved Matters shall be in accordance with the requirements of the approved Design Code for that Code Area.

Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with Policy CS28 'Sustainable Design' of the Core Strategy.

06

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

Reason

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

07

No development shall take place in any of the local centres identified in the Master Plan Development Framework and Principles Document (July 2014) until there has been submitted to and approved in writing by the Local Planning Authority a plan detailing the quantum of floorspace and timescales for delivery of the A1, A2, A3, A4 and A5 use classes for the character area in question. The development shall thereafter be carried out in accordance with the approved phasing plan.

Reason

In order to ensure that sufficient floorspace is provided to accommodate a range of retail, and leisure uses needed to serve a sustainable community in accordance with Paragraph 70 of the NPPF.

08

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

#### Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Paragraph 26 of the NPPF.

09

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

#### Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Paragraph 26 of the NPPF.

10

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

#### Reason

In order to ensure the retail floorspace is of the type and scale for which a need has been identified and which is appropriate to the scale of the neighbourhood centre, in accordance with Policy RET6 'Local Planning Provision' of the Adopted Rotherham UDP and with Paragraph 26 of the NPPF.

11

The hotel shall not be first open to trade until phase 3 of the development as identified in the Master Plan Development Framework and Principles Document (August 2014).

#### Reason

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

## SUSTAINABILITY AND ENERGY

12

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

Reason

To achieve improved energy conservation and the protection of environmental Resources

13

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

Reason

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

14

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

Reason

In order to secure a sustainable development in accordance with Paragraph 97 of the NPPF.

## MANAGEMENT PLAN

15

The development shall be carried out in accordance with the previously approved Green Infrastructure Delivery Plan and any subsequent variations shall be agreed in writing by the Local Planning Authority.

Reason

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

## LANDSCAPE

16

Prior to the commencement of any development within each character area as identified in the Master Plan Development Framework and Principles Document (August 2014), details of a phased scheme of advance planting to provide screen planting to site boundaries (wherever relevant) and structure planting along access roads and associated with key entrances and junctions shall be submitted to and approved in writing by the Local Planning Authority. The said planting shall thereafter be implemented in accordance with the approved details.

Reason

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

## HIGHWAYS

17

No more than 500 No. dwellings shall be occupied on site until the proposed improvements to A630 Parkway/B6533 Poplar Way/Europa Way junction indicated on plan No. A042756-6/21/C/H-OSW-SK-01 Rev P2 have been implemented.

Reason

In the interests of highway safety.

18

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

Reason

In the interests of highway safety.

19

No more than 1000 No. dwellings shall be occupied on site until the proposed improvement to B6066 Highfield Spring/Brunel Way (AMP North) as indicated on plan No. PO-CE-WYG- 01-SK41 have been implemented in accordance with details which shall have been submitted to and approved by the Local Planning authority”

Reason:

In the interests of highway safety.

20

Details of the proposed improvements to the B6533 Poplar Way/B6066 Orgreave Road, as indicated in draft form on plans Nos. H-PL-09 and PO-CE-WYG-PL-09 shall have been submitted to and approved by the Local Planning Authority and shall be implemented prior to any vehicular use of the southern arm of the junction, other than for construction purposes.

Reason

In the interests of highway safety.

21

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

Reason

In the interests of highway safety.

22

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

Reason

In the interests of highway safety.

23

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

Reason

In the interests of highway safety.

24

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

Reason

In the interests of highway safety.

25

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

Reason

In the interests of highway safety.

26

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

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

Reason

In the interests of highway safety.

27

If after occupation of the 500th dwelling, the proposal to implement a mass transit scheme to the site (currently referred to as BRT South) is not committed then a comprehensive scheme to enhance bus services in the area, ensuring a range of bus connections between the Waverley site and the wider area shall be submitted and agreed in writing by the Local Planning Authority”

Reason

In order to promote sustainable transport choices.

28

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

Reason

In the interests of highway safety.

## NOISE

29

Throughout the construction phases of development and except in cases of emergency, no operation that is likely to give rise to noise nuisance or loss of amenity shall take place on site other than between the hours of 0730 to 1800 Monday to Friday and between 0800 to 1300 on Saturdays. Operations which give rise to noise nuisance shall not be carried out on Sundays, Public Holidays or outside normal weekday working hours. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

### Reason

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

30

Throughout the construction phases of development all machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the best practicable means shall be employed to prevent or counteract the effects of noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities.

### Reason

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

31

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

### Reason

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

## DUST

32

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



Reason

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

33

At such times during construction of development when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils, overburden and other dust raising materials shall be temporarily curtailed until such time as the site/weather conditions improve such as to permit a resumption of the operations.

Reason

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

### WHEEL WASHING

34

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

Reason

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

### DRAINAGE AND FLOOD RISK

35

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

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

Reason

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

No development except that associated with site preparation works shall take place or discharge to a drainage system, until the detailed design of the Surface Water Drainage scheme relevant to that development (including appropriate SUDS), including all relevant flood risk assessments within the Waverley development, have been submitted to and approved in writing by the Local Planning Authority. The scheme as approved for each geographical phase of development shall be in accordance with the Outline Surface Water Strategy (October 2009), Its update (May 2014) and the Flood Risk Assessment shall be implemented in accordance with the approved details prior to the construction of 80% of dwellings within that development phase. The scheme shall also include the following:

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

#### Reason

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

37

No development within each geographical Phase, as identified in the Master Plan Development Framework and Principles Document (August 2014) except that associated with site preparation works shall take place or discharge to a drainage system until a scheme for foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The foul water drainage shall be implemented in accordance with the approved scheme.

Reason

To ensure that the development can be properly drained in accordance with UDP policy ENV3.7 'Control of Pollution'.

## **PUBLIC RIGHTS OF WAY**

38

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

Reason

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

## **REGULATORY**

39

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

- Masterplan Development Framework and Principles Document (August 2014).
- Parameter Plans: Land Use, Green Infrastructure, Urban Design Principles and Movement and Access.

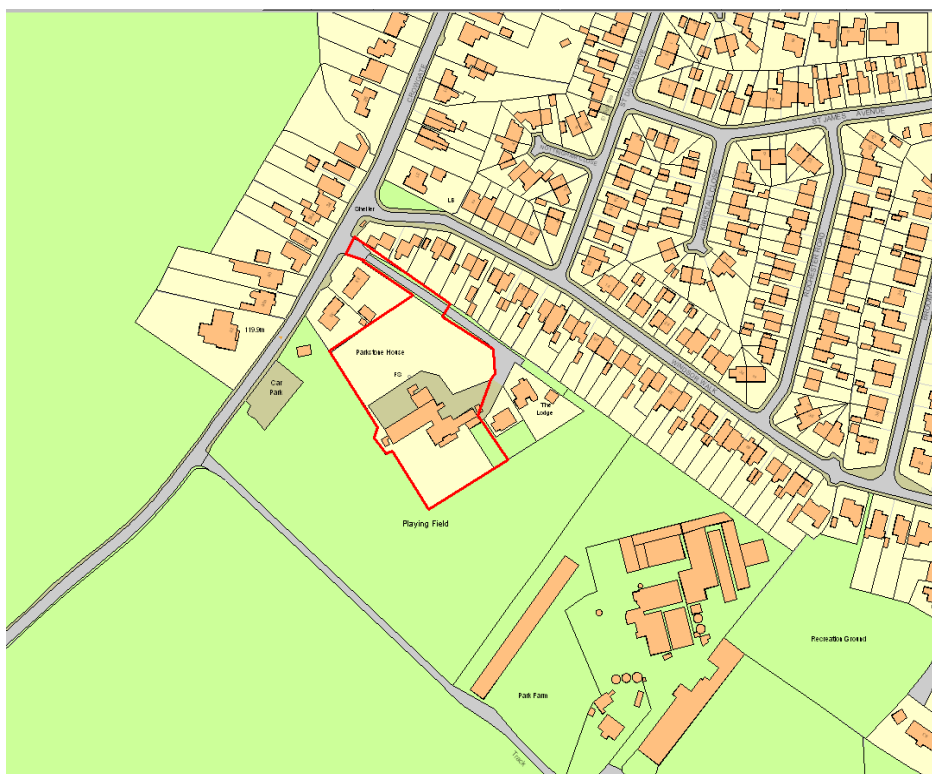
Reason

To ensure high standards of urban design and comprehensively planned development are designed and phased to ensure maximum practical integration between different land uses to accord with Policy CS28 'Sustainable Design' of the Core Strategy.

## **POSITIVE AND PROACTIVE STATEMENT**

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

<b>Application Number</b>	<b>RB2014/0835</b>
<b>Proposal and Location</b>	<b>Application to remove conditions 17 and 19 (land contamination issues) imposed by RB2014/0070 (Demolition of existing buildings and erection of 10 No. dwellings) at Parkstone House Crowgate South Anston for Jones Homes (Northern Limited).</b>
<b>Recommendation</b>	<b>Grant subject to conditions</b>



### **Site Description & Location**

The application site comprises of a former residential care home known as Parkstone House which is set within large grounds. The care home itself consists of an original stone built building with a two storey brick addition which was built in the 1970's. The nursing home was closed in 2008 and all the windows and doors have been boarded up to prevent vandalism.

The site is accessed off Crowgate by a single width access road which is tree lined on both sides by mature trees. The access road serves two additional detached bungalows located adjacent to Parkstone House which were formally used to serve the nursing home and are now independent residential dwellings.

There are a number of mature trees within the site, and on all boundaries. To the north and east of the site are residential properties on Crowgate and Windsor Walk. To the south and west of the site are open fields which are within the Green Belt.

## **Background**

Members may recollect that a full application (Ref RB2014/0070) was granted conditional approval on 25 April 2014 for the demolition of the existing buildings and erection of 10 No. dwellings. Amongst the conditions attached to that approval were:

17

In all proposed garden/landscaping areas where slightly elevated levels of arsenic contamination have been identified (the south of the site, borehole location WSO7), details of a clean soil capping layer of 600mm of subsoil/topsoil shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is brought into use.

and

19

Due to the slightly elevated soluble sulphate content within the soils across the site, a design sulphate classification of DS-1 and the corresponding aggressive chemical environment for concrete (ACEC) class of AC-1 shall be used for all sub surface structures/foundations in all areas of the site.

All the other previous history relates to the use of the site as a residential care home.

As the site area is greater than 0.5 hectares, a screening opinion has been provided in respect of the requirement for an Environment Assessment. The proposed development falls within the description contained at paragraph 10b (Urban Development Projects) of Schedule 2 to the 2011 Regulations and meets the criteria set out in column 2 of the table in that Schedule (as the site 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.

## **Proposal**

The current application by Jones Homes (Northern Ltd) seeks to remove conditions 17 and 19 attached to the previous planning permission (ref RB2014/0070).

The applicants have provided a report from their consulting engineer which clarifies the recommendations of their earlier report and the reasons why these conditions should be removed.

The report states that in respect of 'Made Ground' there are two types present:

- The near surface Made Ground is essentially a topsoil material and they state that contamination testing has shown it to be uncontaminated and re-usable.
- In small localised areas there are deeper areas of generic Made Ground and the report recommends that a clean cover is applied to these areas only.

The report goes on to state that it is understood that these localised areas will be excavated and the material used under roads and hardstanding and that providing the Made Ground is removed from garden areas a clean cover would not be required. The report adds further that where concrete/cement products are not in contact with the deeper Made Ground then no sulphate resistance is necessary.

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

The development site for this application is allocated for residential purposes within the Rotherham Unitary Development Plan and is adjacent to the Green Belt to the west and south.

The following UDP policies are applicable to this application

Policy ENV 3.7 'Control of Pollution'

Policy ENV1.4 'Land adjacent to the Green Belt'

Policy ENV3.3 'Tree Preservation Orders'

Policy ENV3.4 'Trees, Woodlands and Hedgerows'

Policy HG4.3 'Windfall Sites'

Policy HG5 'The Residential Environment'

Policy CR1.5 'Community Facilities'

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

Policy CS28 Sustainable Design of the Core Strategy is considered to be relevant in the determination of this proposal.

## **Other Material Considerations**

### National Planning Policy Guidance (NPPG)

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 publicised by press advertisement, site notice and by neighbour notification. No letters of representation have been received.

## **Consultations**

Neighbourhoods (Contaminated Land Officer) has reviewed the submitted details entitled ‘Development at Parkstone House’ dated 2 June 2014 ref ADJ/JLG/9941 and notes that the letter confirms that the single localised area of deep made ground affected by contamination will be removed and deposited beneath roads and hardstanding areas which will negate the need for a clean soil capping layer to be placed on the affected area. Furthermore it is accepted that as a consequence sulphate resistant concrete will no longer be required for below ground structures. As such, she has no objections to the removal of these 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.

This application seeks to remove conditions 17 and 19 attached to the previous planning permission (ref RB2014/0070) which related to possible land contamination issues.

The issues to be assessed in the determination of this application are;

- The Principle of the proposal
- Land contamination issues

### Principle

The principle of the development has already been assessed at length as part of the previously approved application RB2014/0070 and the proposal was considered to be acceptable at that time.

There have been no changes to the proposal or any relevant changes in legislation since that approval was granted and the principle of the development is therefore still considered to be acceptable.

### Land Contamination

Policy CS28 Sustainable Design of the Core Strategy states that “Development should protect or contribute to securing a healthy and safe environment, including minimising opportunities for crime, the risk of terrorism and addressing any specific risks to health or safety from the local environment.”

UDP Policy ENV3.7 states that “The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.”

Paragraph 109 of the NPPF states that “The planning system should contribute to and enhance the natural and local environment by: (amongst other things)

- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

It further adds at paragraph 120 that “To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is



affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

Additionally the National Planning Policy Guidance (NPPG) notes that planning decisions may need to take account of land contamination issues.

As part of the assessment of the previous application site intrusive investigations were undertaken to assess the potential for contamination within the surface soils and made ground. The results of the intrusive investigation confirmed there are no major geotechnical or geo-environmental constraints at the application site which would hinder the proposed redevelopment at the site, although conditions were recommended regarding soil capping works and other remediation works as part of that approval.

The applicants have now submitted details from their consulting engineer which clarifies the recommendations of their earlier report and the reasons why these conditions are not necessary and should be removed. The report states that localised areas will be excavated and the material used under roads and hardstanding and that providing the Made Ground is removed from garden areas a clean cover would not be required. The report adds further that where concrete/cement products are not in contact with the deeper Made Ground then no sulphate resistance is necessary.

The Contaminated Land Officer from Housing Services has reviewed the submitted details and notes that they confirm that the single localised area of deep made ground affected by contamination will be removed and deposited beneath roads and hardstanding areas which will negate the need for a clean soil capping layer to be placed on the affected area. Furthermore it is accepted that as a consequence sulphate resistant concrete will no longer be required for below ground structures. As such,

## **Conclusion**

In conclusion, taking the submitted details into account it is considered that any risks to human health will be mitigated through the removal of contaminated materials and the conditions 17 and 19 which were attached to the previous approval are therefore no longer considered necessary providing the development is carried out in accordance with the submitted details.

## **Conditions**

01

The development hereby permitted shall be commenced before the expiration of three years from 25 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)

(Drawing numbers: KNGT-P-01, 2436-1-004, 1813AT/1 Topography Plan, 1813AT/1 Tree Constraints Plan, JHN/1150/500, LOUG-P-01 and 2436-1-001 received 17/01/14, CON-P-01A received 14/03/14, 2436-1-002 and HEN-P-01 received 02/04/14 and CON-P-01, HOL-P-02 received 03/04/14, CON-P-01B received 9 April 2014 and 2436-1-002 Rev G, 2436-1-002 Rev G and 2436-1-005 received 10 April 2014).

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

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

04

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

05

Before the development is brought into use the sight line indicated on Drg No 2436-1-002 Rev O 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

In the interest of highway safety.

06

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

Reason

In the interest of highway safety.

07

Prior to the commencement of development hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

08

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 biodiversity gain from the proposal in accordance with UDP Policy ENV3.2 'Maintaining the Character and Quality of the Environment'.

09

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'.

10

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

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

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

#### Reason

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

11

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'.

12

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 to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

Reason

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

13

The approved development shall be implemented in accordance with the advice within the submitted Arboricultural Report and Method Statement dated, November 2013 and the Arboricultural Impact and Method Statement dated March 2014, and in particular the recommended tree protection measures required throughout the development.

Reason

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with 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

Prior to the commencement of any development, including the demolition of the existing buildings, details of the design and construction method of the proposed access within the recommended root protection areas of the existing trees on the site shown for retention shall be submitted for approval. The development shall then be implemented in accordance with the approved details.

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'.

15

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

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with UDP Policy ENV3.1 'Development and the Environment'.

16

The foundation design for the site shall be undertaken in accordance with the recommendations detailed in section 13 of the Phase I Geo-Environmental and Geotechnical Assessment and Phase II Intrusive Investigation, Parkstone House, Crowgate, South Anston, Sheffield for Jones Homes (Northern Limited), by Michael D Joyce Associates LLP, dated March 2011, report ref 3221.

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.

17

Work shall be carried out in accordance with the details submitted in the document entitled 'Development at Parkstone House' dated 2 June 2014 ref ADJ/JLG/9941. In the event that during development works unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. Works thereafter shall be carried out in accordance with an approved Method Statement.

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

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

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

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

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

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

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

**INF 25 Protected species****Wildlife Legislation**

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

**POSITIVE AND PROACTIVE STATEMENT**

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



<b>Application Number</b>	<b>RB2014/0911</b>
<b>Proposal and Location</b>	Retrospective application for change of use of part of dwelling to day nursery for 14 No. places (use class D1), Arborlawn, Carlisle Street, Kilnhurst, S64 5UJ
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The site relates to a detached dormer bungalow on the southern side of Carlisle Street in Kilnhurst known as Arborlawn, which is the first house on the street. The surrounding area is predominantly residential and the majority of the immediately surrounding plots are detached and of a broadly similar size though of differing architecture and appearance. This property has a rear garden with an approximate area of 300sqm and has a boundary with 5 other residential properties. The property had a side and rear extension in 2007.

### Background

The site has the following recent planning history:

RB2007/1733 – Two storey side & front and single storey rear extension to existing bungalow – refused

RB2007/2237 – Two storey side & front and single storey rear extension to existing bungalow – granted conditionally

RB2013/1630 – Change of use of part of dwelling to day nursery (use class D1) with formation of car park to front – refused. The reasons for refusal were as follows:

01

The Council consider that the day nursery with a total of 22 children is of a scale and intensity that is out of keeping with the surrounding residential area. The level of general disturbance associated with vehicular movements and general use of the property is high, including the dropping off and collecting of children early in the morning and in the evening. As such the use is detrimental to the amenities of occupiers of nearby properties and contrary to Policies HG1 'Existing Housing Areas' and ENV3.7 'Control of Pollution' of the adopted Rotherham UDP and paragraph 123 of the NPPF.

02

The Council considers that the loss of an area of incidental Urban Greenspace directly to the north-west of the site and subsequent use of the land as private car parking area, with no alternative provision of equivalent community benefit would result in the reduction in amenity for the local community, contrary to Policies ENV5.1 'Allocated Urban Greenspace' and ENV5.2 'Incidental Urban Greenspace'

03

The Council further considers that the proposed car parking area would be visually intrusive and excessively dominant on the residential surroundings by the creation of a large hardsurfaced parking area that would have a commercial appearance and be out of scale with the surrounding estate, contrary to policies HG1 'Existing Housing Areas' and ENV3.1 'Development and the Environment.'

04

No noise survey has been submitted for the Council to accurately assess the level of noise to the surrounding residential properties. It is not therefore possible to fully assess the impact on residential amenity and the application is considered contrary to the advice in ENV3.7 'Control of Pollution'

RB2014/0556 – Change of use of part of dwelling to day nursery (use class D1) for 22 children – withdrawn (the Council had previously resolved to refuse the application in consultation with the Chair and Vice Chair of Planning Board).

## **Proposal**

The application is in part retrospective and involves a change of use from C3 residential to a mixed C3 residential/D2 Nursery. It is understood that the nursery has been operating for a number of years (starting in approximately 2007), though this started as an ancillary operation of 6 children being looked after which did not involve a material change of use that would require planning permission. Over the years the use has since increased to the current total of 22 children. This application however proposes to accommodate a maximum number of 14 children at any one time.

It should be noted that the Council's Children and Young Peoples Services have indicated that there is a shortage of nursery places in Rotherham, particularly Swinton.

The changes to this application compared to previous refusals on this site can be summarised as follows:

- Reduction in the numbers of children accommodated from 22 to a maximum of 14.
- Omission of the proposed fenced area to enclose the open area of green space from this application.
- Omission of the expanded car parking area.
- Submission of a noise assessment to support the application.

The noise assessment can be summarised in more detail below:

- Carried out by Environmental Noise Solutions Ltd (ENS) undertaken using a Bruel & Kjaer 2260 Type 1 integrating sound level meter.
- The noise survey was undertaken on Monday 10th March 2014. A single monitoring position was adopted at the south eastern boundary of the existing garden at circa 4 metres from the astro turf area at a height of 4 metres above ground level (an elevated position was adopted to minimise any reflections from the existing boundary fence).
- The Nursery opening hours are circa 07:30 to a maximum of 19:00 hours, Monday to Friday (closed Saturdays, Sundays and Bank Holiday).
- Consultation with the nursery owners has confirmed that outdoor play times will take place over two hours in the morning and two hours in the afternoon. Times will be flexible and subject to the weather.
- Average readings  
50 dB LAeq, 45 dB LA90 and 58 dB LA1 in the absence of outdoor play activity  
57 dB LAeq, 49 dB LA90 and 67 dB LA1 with outdoor play activity (2 to 4 year olds)  
52 dB LAeq, 47 dB LA90 and 57 dB LA1 with outdoor play activity (0 to 2 year olds).
- The existing boundary fence to the rear of the application site is 'hit and miss' and It is proposed that the existing boundary fencing will be maintained and a new acoustic fence will be installed, circa 2 metres in height.

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

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is allocated as residential within the adopted Rotherham Unitary Development Plan and the following Policies are considered to be relevant.

UDP Policies:

HG1 'Existing Housing Areas'

ENV3.7 'Control of Pollution'

Core Strategy Policies:

Policy CS21 'Landscape'

### **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**

Adjacent properties were notified in writing on 03 July 2014 and a site notice was erected on 14 July 2014. A total of 20 representations have been received. The representations can be summarised as follows:

Letters of Objection (18 in total)

- High noise levels originating from the property.
- The submitted noise assessment is not accurate as children often play outside for longer periods
- Insensitive behaviour/parking of some parents using the nursery
- The grass verge is often churned up
- Children sometimes arrive from 7am onwards.

It should be noted that 9 of these objections have been received from residents who live more than 100m from the site, and in some cases from East Herringthorpe, Barnsley and Conisbrough.

A number of residents have also mentioned a 'Teddy Bears Picnic' on the afternoon of Sunday 20<sup>th</sup> July. Whilst not directly relevant to this planning application, it is understood that this was a one-off charity event that took place with licensing consent and did not require planning permission.

Letters of support (1 in total)

- Letter received from a local resident indicating that the business does not cause any harm to the immediate surroundings.

Two Rights to Speak have been received, one from the applicant and one from an objector.

## **Consultations**

Streetpride (Transportation Unit) – no objections on highway capacity  
Neighbourhoods (Environmental Health) – no objections on noise

## **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 of the application are considered to be as follows.

- Principle of development (Change of Use)
- Impact on the amenity of the surrounding residential area
- Highway safety
- Other issues

### Principle of development (Change of Use)

This site is allocated for residential purposes in the Development Plan and the surrounding properties of the site comprise predominantly of detached and semi-detached residential properties. There is an allocated area of Urban Greenspace to the west of the site, on the western side of Highborn Road. The overriding character of the surroundings is considered to be an established residential area that is relatively low density.

It is noted that the application site has had some modifications to the rear garden area, including a small amount of terracing and artificial grass as well as some play structures. The frontage of the property retains the visual appearance of a typical residential property on this estate.

Policy HG1 'Existing Housing Areas', which is currently saved in the UDP, amongst other things, states that the Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which have no adverse effect on the character of the area or on residential amenity. In general planning terms it is accepted that a children's day centre/nursery can often be accommodated within residential areas, or mixed residential areas, providing that they are not of an intensive scale such that they would have an adverse effect on the character of the area or on residential amenity of the surroundings.

The applicant has also indicated that there is a shortage of nursery places within the Swinton area and this has also been confirmed by RMBC's early years.

With regard to this application and this particular plot it is noted that the scale of the change of use (14 children, reduced from 22 children in previous applications) has been considerably reduced. A total of 6 children could be accommodated at the property without a Change of Use occurring. Whilst this figure is significantly above this figure, it is also substantially below 22 children. The property is of a similar building proportion and scale to the surrounding plots and has a similar garden size to the adjacent properties. It is a detached property and on balance it is considered that this would be of a satisfactory scale that would not have a detrimental impact to the surroundings.

The applicant has also proposed to erect a 2m high acoustic fence in the rear garden (as indicated in the submitted supporting statement) which is considered to further absorb noise and reduce noise levels to neighbouring properties.

As such it is considered that the principle of a day nursery is acceptable within this locality.

#### Impact of nursery on the surrounding residential area

Turning to issues of amenity, the extensions associated with this property have already been approved in 2007 and implemented in accordance with the approved plans. This application does not therefore consider issues such as adverse levels of overlooking or, overshadowing of habitable room windows or private amenity spaces.

It is necessary to fully assess the impact of this use on the amenity of neighbouring residents with regard to policy ENV3.7 and policy HG1 of the saved UDP.

The Council's Environmental Health department have not specifically raised objections to this application in terms of high levels of noise from children playing outdoors. However, objections received indicate that occupiers of nearby properties get little respite from noise during daytime hours, particularly in the summer months. Whilst the applicant has indicated that some of the children accommodated are babies and thus wont play outside, this is not something that can easily be conditioned.

Ofsted regulations indicate that there should be a free flow of access to outdoor play / provision for all children all day. The indoor and outdoor environment should be seamless to enable children to access the benefits and opportunities of all experiences on offer without the restriction of a set time period with a set number of other children to play with. Such restrictions potentially hinder the learning and development of children. It is also impractical and unenforceable for the Planning Department to impose conditions that restrict the numbers of children playing outside at any particular time. In addition outside factors, such as weather will be a factor. From the comments that have been received, it would appear that they are being subject to adverse noise levels throughout the majority of the day. This it is currently considered harmful to their amenities and specifically within this residential area where the houses are quite close together.

The noise report submitted in support of the application recognises that the existing boundary fence to the rear of the application site is 'hit and miss' which will afford limited protection to the adjacent gardens and adjacent residential properties. It goes on to say that an additional acoustic boundary around 2 metres in height will be erected inside this boundary would allow for more noise screening to occur.

As such, it is considered that by reducing the number of children form the current level of 22 down to 14 and by erecting the acoustic fence, the proposal would conform with policy ENV3.7 of the UDP which states planning permission will not be granted for new development which, amongst other things, is likely to give rise to noise or other nuisances, where such impacts would be beyond acceptable standards. It is therefore considered that the proposal would not have an adverse impact on the amenities of the occupiers of neighbouring properties by virtue of noise disturbance.

#### Highway safety

The Transportation Unit have not raised any specific objections on highway safety grounds.

No highway reasons for refusal were recommended in either previous application and whilst an area of parking on adjacent land has been removed in this proposal it is considered that the reduction in numbers of children to a maximum of 14 would also lead to a reduction in the current levels of on street car parking. The Transportation Unit are of the opinion that such an occurrence in this location is unlikely to have a material adverse impact in

road safety terms. The range of hours for drop offs/collections of children is likely to stagger arrivals and departures from the site at peak hours and reduce the likelihood for future congestion to occur in the vicinity.

### Other issues

In terms of the building itself, the change of use does not involve any alterations to the visual appearance of the building.

As indicated above, it is noted that the application site has had some modifications to the rear garden area, but otherwise the external alterations on the external design of the property are minimal and the property retains the visual appearance of a typical residential property in conformity with draft Core Strategy Policy CS21 'Landscape' and paragraph 56 of the NPPF.

### **Conclusion**

The principle of a small scale nursery within a residential area is acceptable. In this case the reduction in the number of children to a maximum of 14 is considered to result in a satisfactory level to reduce the impact on neighbouring residential amenity and to overcome the previous reasons for refusal. The Transportation Unit have not raised any objections on highway safety or capacity grounds. The Environmental Health department have not raised any objections on the grounds of noise. The application is therefore considered to be acceptable subject to conditions and is recommended for approval.

### **Conditions**

01

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

(Drawing numbers Planning Statement v3) (received 02/07/2014)

Reason

To define the permission and for the avoidance of doubt.

02

No more than 14 children shall be accommodated at the premises at any one time.

Reason

In the interests of amenity to the nearby residential properties.

03

The use of the building as a childrens nursery shall only be used between Monday to Friday 07:00 – 19:00 hours with no opening on Saturdays, Sundays and Bank Holidays.



Reason

In the interests of amenity to the nearby residential properties.

04

The acoustic fence detailed in the Noise Assessment and Planning Statement shall be erected within 3 months of this permission.

Reason

In the interests of amenity to the nearby residential properties.

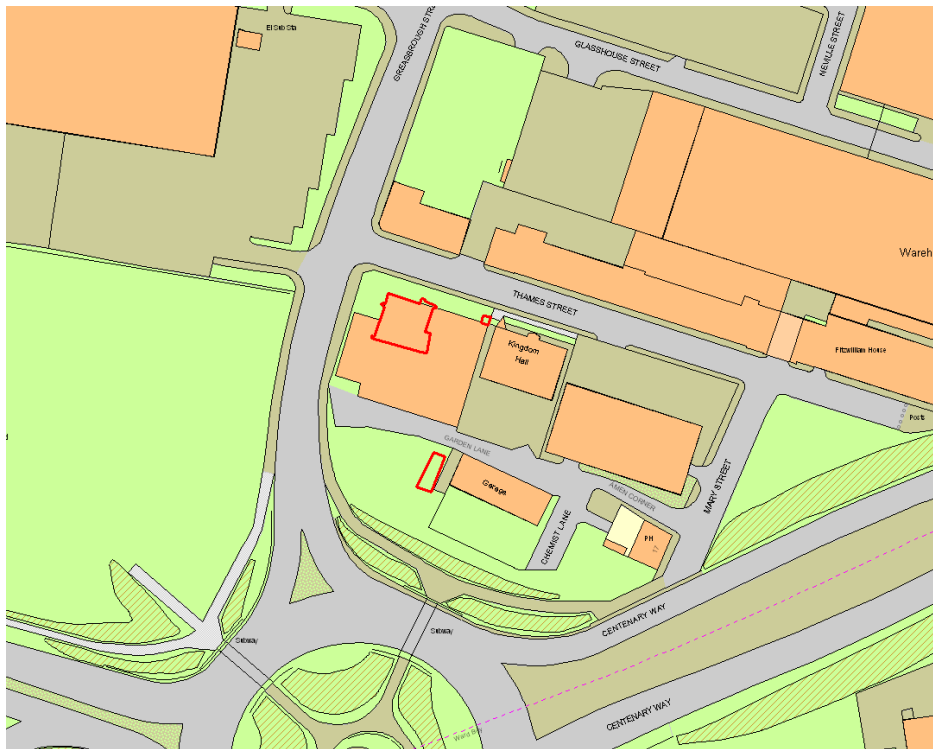
### **Informatives**

a) The applicant is reminded that the numbers of children should be reduced to 14 before the end of September 2014, as after this date the Council has authorisation to take future enforcement action against use of the premises for 22 children from earlier planning refusal RB2013/1630.

### **POSITIVE AND PROACTIVE STATEMENT**

Following previous refusals, the applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application and what might be acceptable. 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>RB2014/0927</b>
<b>Proposal and Location</b>	Sub-division of building to create a hot-food takeaway (use class A5) in new unit, external alterations including installation of ventilation / extraction equipment, erection of bin store and formation of 4 no. parking spaces at Against the Grain, Unit 2, Greasbrough Street, Masbrough, Rotherham, S60 1RF
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The application site is within a recently constructed flat roofed building on the corner of Thames Street and Greasbrough Street approximately 400m north of Rotherham town centre. The building comprises a number of various units.

Thames Street forms the site's northern boundary, beyond which lies a glazing store. Greasbrough Street forms the site's western boundary, beyond which lies a commercial unit and green-space.

A 'Topp's Tiles' store and communal car park is located to the south of the application site, whilst a mix of commercial units and a religious building are situated at the rear.

The application site formed part of a former furniture showroom.

### Background

There have been a number of previous planning applications relating to this site, none of which are relevant to this current application.

## **Proposal**

The application is for the sub-division of the previous furniture showroom and to create a hot-food takeaway within the new unit including the external alterations to include the installation of ventilation / extraction equipment, erection of bin store and formation of 4 no. parking spaces.

The application site will be created through the sub-division of the existing unit to create the hot-food takeaway, along with minor alterations and enhancements to the exterior of the building to facilitate its future use. The proposed changes comprise the following:

- Retention of existing customer entrance door and installation of new tubular handrail along the front (western) elevation;
- Repair of existing damaged brickwork along the side (northern) elevation;
- Installation of 1 no. fresh air duct intake along the side (northern) elevation;
- Installation of 1 no. air conditioning unit and 1 no. compressor unit along the side (northern) elevation; and
- Installation of 1 no. roof mounted extract duct projecting approximately 0.8 metres above the height of the roof and would be approximately 0.5 metres wide.

The applicant is seeking permission for the unit to be open between 11:00 and 04:00 a.m. 7 days a week.

Information regarding the type and specification of the extraction system has been submitted in support of the application.

## **Development Plan Allocation and Policy**

On the 9th July 2014, the Council's Cabinet recommended that the Council adopt its Core Strategy. A report regarding adoption is to be considered at the full Council meeting of 10 September and upon approval the Core Strategy will be adopted and published. The weight to be given to the Core Strategy policies in the determination of planning applications is therefore significant as the Council considers the Core Strategy proposals satisfy the relevant requirements under paragraph 215 of the NPPF.

The site is allocated for mixed use within the adopted Rotherham Unitary Development Plan and the following Policies are considered to be relevant.

UDP Policies:

EN3.7 'Control of Pollution'  
T6 'Access'

Core Strategy Policies:

CS28 'Sustainable Design'  
CS31 'Mixed Use Areas'

### **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 has been advertised by way of a site notice, while neighbouring businesses have been notified in writing. One letter of objection has been received from the three congregations that use the Kingdom Hall on Thames Street. The issues raised are summarised below:

- There are concerns over the environmental effects upon a community use public building, during community religious services.
- Ambient and surge odours.
- Noise from cooking process, retail function or consumers coming and going.
- Waste disposal units creating unsightly image at primary entrance to Kingdom Hall.
- Litter from waste disposal units and consumers.
- Siting of the extraction units and would request that they do not overhang our access passageway which runs between the two buildings.
- Concerns over parking.
- The junction of Thames Street and Greasbrough Road is a difficult junction to drive out from with heavy traffic flow along Greasbrough Road. Much as traffic regulations seek to prevent right turns it is not uncommon to see drivers attempting to do this, instead of driving around the roundabout. This junction will bear increased traffic as again, for the unit to be successful it will need to rely upon more than just local walking business and so car numbers will have to increase.

## **Consultations**

Streetpride (Transportation and Highways): Have no justification to recommend refusal on highway grounds.

Neighbourhoods (Environmental Health): Have indicated that there is potential for the development to cause nuisance through noise, vibration and odour. Therefore they recommend that the mesh grease filter is subject to twice weekly cleaning and extraction system and odour abatement equipment are maintained to the manufacturer's specification.

## **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 this application are:

- i) the principle of the proposed change of use;
- ii) the impact of the proposed external alterations on the character and appearance of the host property and immediate surrounding area;
- iii) the impact of the proposed alterations and use on the amenity of neighbouring occupants; and
- iv) highway issues

## **Principle**

The application site is located within 'Mixed Use Area 18', as defined within the adopted Proposals Map of the UDP. Policy CS31 'Mixed Use Areas' states: "Within Mixed Use Areas to be shown on the Policies Map accompanying the Sites and Policies document, a variety of land uses will be acceptable. The particular uses appropriate to each area and any limitations or requirements pertaining to these uses or their location will be set out in the Sites and Policies document'.

As the Sites and Policies document has not yet been adopted consideration about what are the appropriate uses for this particular mixed use area is set out within paragraph 7.4.11 of the adopted UDP, which states that within this particular mixed use area, uses falling within Class A3, B1, C1 and D1 will be acceptable in principle.

It is of note that the publication of the UDP, and the designation of the site as a mixed use area, pre-dates the 2005 Use Classes Order which disaggregated Class A3 use into three separate classes i.e. Use Class A3, A4 and A5. As such it is considered that Class A5 uses – including hot food takeaways – fall within those uses which are considered to be acceptable within this particular mixed use area.

Furthermore, the NPPF supports sustainable economic growth and encourages local planning authorities to address potential barriers to investment and to take into account the needs of business communities. It is therefore, considered that the application proposal will help to promote sustainable economic growth, which is a key objective of national and local planning policy. In addition, the proposal will enable the beneficial reuse of a vacant unit within the urban area, and moreover, will create much needed employment opportunities at a sustainable location.

It is therefore considered that the proposed use would be an acceptable use in this mixed use area as detailed in the UDP and Core Strategy and would be in compliance with one of the key objectives of the NPPF.

#### Impact of alterations on application unit and surrounding area

The NPPF at paragraph 17, 56 and 64 outline the importance of design on the built environment and how good design is a key aspect of sustainable development and should contribute positively to making places better for people. They further state that development of poor design that fails to improve the character and quality of an area should be refused.

Core Strategy policy CS28 'Sustainable Design' states proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping and design should take all opportunities to improve the character and quality of an area and the way it functions.

The main external alterations to the existing unit will be the introduction of a fresh air duct, air conditioning unit and compressor unit on the northern elevation facing Thams Street and the roof mounted extract duct in order to facilitate the proposed used. It is considered that as the external equipment will be visible from the street and there is no other place to be able to site them away from public views, there addition is on balance accepted.

However, it is considered that in order to minimise their impact in the streetscene and on the appearance of the building they should be painted in a black.

It is therefore considered that on balance the external equipment which is required to facilitate the proposed use, subject to being appropriately coated will be acceptable and will conform to the requirements of the NPPF and Core Strategy. As such they will not detrimentally impact on the appearance of the building or its setting within the immediate surrounding area.

#### Impact on amenity

The NPPF at paragraph 17 states planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

In addition to the above saved UDP policy ENV3.7 'Control of Pollution' states: "The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport... Planning permission will not be granted for new development which i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere..."

The proposed unit is to be open between the hours of 11:00 and 04:00 a.m. seven days a week. However as the site comprises an established commercial unit and is bounded by commercial properties to the north, south and east, while there are no residential properties in the immediate vicinity, it is considered that the proposed use would not adversely impact upon local amenity.

Further to the above, the installation of the extraction and ventilation equipment to facilitate the use of the unit, have been designed to a high specification in order to eliminate fumes, odour, noise and vibrations. Therefore it is considered that the development will not constitute an intrusive land use.

The Council's Environmental Health department have indicated that there is potential for the development to cause nuisance through noise, vibration and odour. They have therefore recommend two conditions: i) that the mesh grease filter is subject to twice weekly cleaning and ii) the extraction system and odour abatement equipment are maintained to the manufacturer's specification. Whilst these comments are noted, neither of the conditions proposed by Environmental Health would meet all the tests detailed in Planning Circular 11/95 for use of conditions in planning permission. As such these are to be included as informatives to advise the applicant that the maintenance of the equipment will ensure noise and odour complaints are not an issue.

It is therefore considered that having regard to the amenity issues raised by the objectors, they do not outweigh the fact that the proposal complies with the requirements of the NPPF and UDP policy ENV3.7 and will not detrimentally affect the amenity of occupants of neighbouring non-residential premises.

It is noted that the objector has raised concerns about the potential increase in litter, the applicant has proposed an area within the forecourt of the site on the northern side for a bin store for waste from the premise and a condition is recommended requiring the applicant to provide a litter bin within the site.

### Highway issues

It is considered that whilst the premises are located within a reasonable walking distance of Rotherham town centre and residential areas to the west, a significant number of customers are likely to be car borne. The allocated parking area (some 4 no. spaces) is remote from the premises and unlikely to prove convenient for other than staff use. Customers will no doubt seek to park closer to the premises, either in the time restricted on street parking bays in Thames Street or elsewhere along Thames Street and Greasbrough Street, in contravention of existing waiting restrictions. Furthermore, the Thames Street junction with Greasbrough Street is subject to a Traffic Regulation Order (TRO) banning right turns out of the junction. The proposal, if implemented, may encourage the contravention of this TRO.

However, the Council, as Highway Authority has powers to enforce these restrictions such that a refusal of planning permission on highway grounds could not be justified in this instance.

### **Conclusion**

It is considered that whilst the issues raised by the objectors have been taken into account, they do not outweigh the fact that the scheme fully complies with the requirements of the relevant sections of the NPPF, Core Strategy and UDP. Therefore the introduction of a hot food takeaway into part of the existing former furniture showroom unit represents an acceptable use in this mixed use area and the alterations will not adversely affect the host building, the surrounding area or the amenity of neighbouring occupants. As such, subject to conditions the application is 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

Before the hot-food takeaway hereby approved is brought into use the fresh air duct, air conditioning unit and compressor unit to be sited on the northern elevation and the roof mounted extract duct shall be powder coated black and shall remain thereafter be retained

Reason

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

03

At all times the use is open to customers a litter bin shall be provided for customers. The design and siting of the bin shall be agreed in writing with the Local Planning Authority before the use commences.

Reason

To ensure adequate refuse provision is made for the customers of the business and to prevent harm to the character of the area resulting from littering

### **Informatives**

01

The applicant is advised that the mesh grease filter should be subject to twice weekly cleaning and the extraction system and odour abatement equipment are maintained to the manufacturer's specifications.

02

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

### **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.