

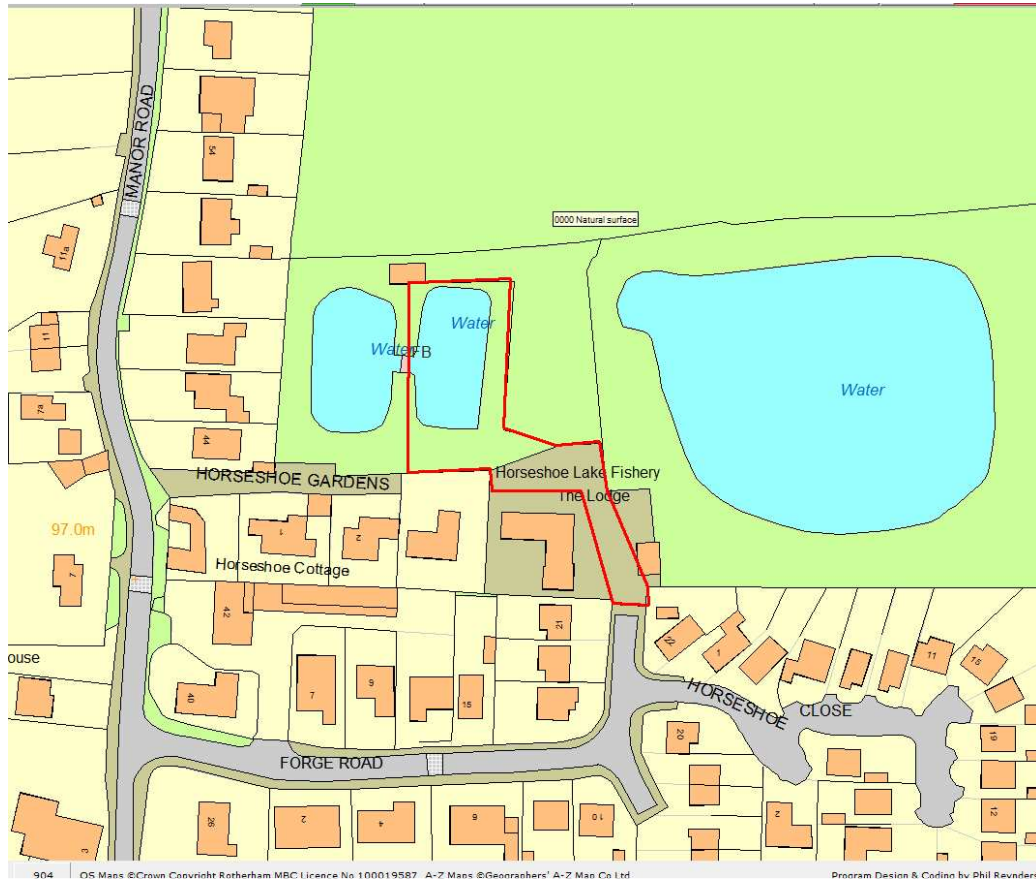
**REPORT TO THE PLANNING REGULATORY BOARD  
TO BE HELD ON THE 8<sup>th</sup> January 2015**

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

**INDEX PAGE**

<b>RB2014/1366 Levelling of land levels and change of use from commercial fishing pond to touring caravan at The Lodge Horseshoe Lake Forge Road Wales for Mr D Hull</b>	<b>Page 8</b>
<b>RB2014/1403 Installation of new shop front, erection of external flue to rear and change of use to hot food takeaway (Use Class A5) at PC Part X Computers 79 Bawtry Road Bramley for Mr Demir</b>	<b>Page 20</b>

<b>Application Number</b>	<b>RB2014/1366</b>
<b>Proposal and Location</b>	Levelling of land levels and change of use from commercial fishing pond to touring caravan site at The Lodge Horseshoe Lake, Forge Road, Wales, S26 5RS
<b>Recommendation</b>	Refuse



## Site Description & Location

The application site is an existing commercial fishing pond, forming part of a larger fishing pond site with associated dwelling and pitches for 5 caravans for the use of fishermen. The ponds consist of one major pond and two smaller ponds, one of which has been left to drain away naturally by the applicant. The drained pond forms the site on which the applicant seeks the additional caravan pitches.

The site is accessed off Forge Road, a residential cul de sac within Wales village. The residential dwellings on Forge Road fall within the residential allocation, whereas the ponds, caravan pitch and associated house fall within the Green Belt.

## Background

The site has a long planning history, including:

R95/1207 - Proposed lake, allotment, potting shed, orchard and fisherman's cabin – GRANTED CONDITIONALLY 22/2/06

R98/0699 - Formation of a stock pond - GRANTED CONDITIONALLY 28/09/98

RB2001/0131 – Fisherman's caravan park, extension of cabin to form office and retail storage and extension of car park - GRANTED CONDITIONALLY

Conditions:

01

Permission hereby granted is for the parking of a maximum of 5 caravans at any one time.

02

The proposed caravans shall only be used for the accommodation of fishermen using the adjacent angling facilities and shall not be used at any time as permanent dwellings.

RB2001/0170 - Enlargement of small stock pond to form, coarse fishing pond – REFUSED. Allowed at Appeal (16/11/01).

RB2005/2284 - Erection of a detached dwelling including details of replacement parking - GRANTED CONDITIONALLY.

## **Proposal**

The applicant seeks permission to infill an existing disused fishing pond and to provide 12 pitches for touring caravans. The fishing pond has become disused over recent years and the water level not maintained. As such the pond has drained naturally. The infilling will involve the importation of clean crushed stone some 1.5m to 2m deep to level off the land.

The applicant's supporting statement states that:

The caravan facility is heavily booked in the main season. The tourism offer is important to Rotherham and an expansion of the facility would bring benefits to the borough. The proposed site previously contained a small pond artificially maintained by expensively pumped water. The land is now completely drained and open as the expense of maintaining unused small areas of water is no longer viable. It is proposed to raise the level of the ground by 1.5 -2m with clean, environmentally friendly crushed stone, rolled and permeable so natural drainage occurs.

Toilets and power exist on site so no infrastructure is involved. Access will be taken off Forge Road as currently occurs. The site is well managed with no reported adverse effects on any adjacent properties. The site is available for up to 12 new touring caravan pitches. There are no changes planned which would affect the main eastern fishing facilities in terms of fish or any wildlife.

In addition the applicant has submitted a Transport Statement, which states that:

- The site will absorb approximately 675cu metres of suitable fill material.
- It will be delivered by eight wheeled vehicles at the rate of 20 tonnes per trip. This will generate about 35 trips in total to the site.
- Depending on where the material is sourced the whole delivery would be completed within one working week or less. A small machine will be on site to roll and compact as necessary.
- Delivery hours and frequency of trips can be agreed to be during working day and not weekends by planning conditions.
- The impact of this operation will be minimal to the few residents adjacent to the delivery area on an adopted highway.
- Caravans use the site now and have only one movement per visit with a carefully managed site operation. The site is gated and has caused no complaints.
- The site has a large forecourt and car park existing with clean well compacted surface so manoeuvring of deliveries will be managed without difficulty.
- The site owner will have a wheel washing hose on site and on exit the delivery vehicles will be washed if necessary within the car parking area. Due to the nature of the forecourt not much mud or dirt will be generated.

The applicant has submitted details of online reviews of the caravan site. All the reviews are positive and many visitors indicate that they visit local attractions such as Rother Valley Country Park, as well as other tourist attractions in Sheffield and Derbyshire.

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

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

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

Core Strategy policy(s):

CS1 – 'Delivering Rotherham's Spatial Strategy'

CS4 – 'Green Belt'

CS11 – 'Tourism and the Visitor Economy'

CS28 - 'Sustainable Design'

UDP 'saved' Policy:

EC6.4 Tourism and Visitor Developments and the Environment.

## **Other Material Considerations**

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

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

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

## **Publicity**

The application was advertised by way of neighbour notification letter and site notice. A total of 14 letters of objection have been received as well as a petition with a total of 23 signatures and a letter from Wales Parish Council, the objectors state that:

- The small cul de sac cannot accommodate additional traffic.
- The road is impractical and unsafe to take extra caravans.
- Detrimental to neighbourhood feel of the local area.
- Existing anti social activity and bad language emanating from the site.
- Additional litter and vermin caused from additional tourists.
- Ample caravan pitches elsewhere in Rotherham, including Rother Valley Country Park.
- Detrimental to the safety of young children in the cul de sac.
- Manor Road is not suitable to accommodate additional traffic.
- Security concerns from increase in tourists in the area.
- Traffic issues with locked gates causing traffic problems in the cul de sac.
- Caravans detrimental to the openness of the Green Belt.
- Little benefit to local community, no additional jobs created.
- Drainage issues related to the drainage of the pond.
- Potential that the applicant may seek housing on the site in future years.

The Parish Council objection states:

1. The property is situated in close proximity to two schools, the arterial roads in the vicinity are narrow and they become congested at peak times. Increasing the number of caravan berths from 5 to 17 would further exacerbate the situation.

2. Access to the property is via estate roads which are narrow and frequently single or double parked. They were not designed to take the extra traffic, especially the larger caravans which are now a common sight on the roads, and would rapidly become gridlocked if access to the property was disrupted for any reason.

3. The area is rural and intensification of the use of the property as a caravan site would damage the amenity of the area and is likely to lead to increased incidents of littering and increased pollution.

### **Consultations**

Streetpride (Transportation & Highways Unit): Notes that no evidence has been submitted to satisfactorily demonstrate that the HGV's and additional caravans will not have a material adverse impact on other road users in Manor Road. Manor Road is subject to a 20 mph limit and is traffic calmed (speed humps) which reflects the predominantly residential nature of the road. The carriageway varies in alignment and width but is generally between 4.6m and 5.5m wide. There is a continuous footway on the western side but not on the eastern side. The Transportation Unit adds that the carriageway currently accommodates farm vehicles as well as general residential traffic. Furthermore, there is an existing caravan site at The Lodge (5 No. pitches) although these are restricted for use by fisherman using the adjacent angling facilities.

The Transportation Unit notes that it is generally accepted that a carriageway width of 4.8m will allow a wide car to pass a large service vehicle such as a pantehnicon with an overall clearance of 0.5m. However, the carriageway along Manor Road is, in part, slightly less than this. Furthermore, the horizontal alignment of parts of Manor Road is such that a towed caravan would occupy most of the available carriageway width in these locations. In this connection, some caravans can be as wide as 2.55m. In the event of a towed caravan meeting an oncoming vehicle, it is likely that one of the vehicles would have to over- run the footway to pass, with implications for the safety of pedestrians. The proposed tipping operations would create similar issues but for a temporary period only (one week approximately.)

Finally, the Transportation Unit are concerned that the proposal, if approved, could encourage the submission of other applications of a similar nature elsewhere on the fishery site. Such applications would become progressively more difficult to resist and would result in additional towed caravans travelling along Manor Road to the further detriment of road safety.

In view of the above the Transportation Unit recommend that planning permission be refused.

Neighbourhoods (Environmental Health): No objections subject to appropriate conditions.

Streetpride (Ecologist): Notes that she had a number of conversations with the landowner a couple of years ago and he said there were great crested newts on site and after a previous site visit it was also established that water voles were present. At that time the landowner was not happy about the level of survey work and mitigation that would be needed to support a planning application. The ecologist notes that he has allowed one of the ponds to dry out which may mean that these protected species are not in that pond but there is a likelihood of them being in the rest of the site and this should be considered as part of the application process. Without an ecological assessment it is unknown if protected species are affected or not, and if so, what mitigation measures are proposed. Without this information the application cannot be supported.

## **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:

- Principle of the development in the Green Belt
- Impact upon the openness of the Green Belt
- Residential Amenity
- Highways Issues
- Very special circumstances

### Principle of caravans in the Green Belt

The application site is allocated Green Belt within the Council's adopted UDP therefore any proposal on this site should wherever possible be retained or developed for such purposes. Core Strategy CS4 – Green Belt states: "Land within the Green Belt will be protected from inappropriate development as set out in national planning policy."

In terms of the infilling of the former pond, paragraph 90 of the NPPF notes that engineering operations are not inappropriate development "provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt." In this instance the engineering

operations will merely restore the land to its original state such that the impact on the openness of the Green Belt would be minimal and as such the principle of this aspect of the development is considered acceptable.

In respect of the subsequent change of use of the land to allow stationing of the touring caravans, whilst the NPPF does not specifically refer to a material change of use the High Court held in the case of *Fordent Holdings Ltd v Secretary of State for Communities and Local Government* and another; that this does not mean that a material change of use is automatically inappropriate development. Paragraphs 87, 89 and 90 should be read together, and a change of use has to be considered on its merits with a decision to be made as to whether it is inappropriate development or not. It is considered that all aspects of the development will harm the openness of the Green Belt and its purpose, and as such it is inappropriate development. Very special circumstances therefore need to be demonstrated to outweigh the harm by inappropriateness, and any other harm, if the development is to be considered acceptable.

In terms of the impact on the openness of the Green Belt, the NPPF at paragraph 79 states that: "The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence." With regard to the caravans, whilst these will be temporary additions to the landscape and will come and go depending on demand, they will due to their size and number, when combined with existing caravans on the site, have an adverse impact on openness.

The development proposed is inappropriate development in the Green Belt and Paragraph 80 of the NPPF sets out the five purposes that the Green Belt serves:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

With regard to the above purposes whilst the proposal would not create a situation where neighbouring towns could be said to be merging into one another, the proposed site when fully occupied would naturally have an urbanising impact, and it would naturally encroach into the countryside. For these reasons the harm by inappropriateness is compounded by these considerations and following paragraph 88 of the NPPF substantial weight should be given to the harm to the Green Belt.

As such it is considered that very special circumstance need to be demonstrated to overcome the harm caused by way of the inappropriate



development and the impact on openness, as well as any other harm. These are discussed in more detail below.

### 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.

In this instance the caravanning site will be positioned in an existing compound with surrounding high brick walling and a gate. The nearest dwelling is No.3 Horseshoe Gardens, which will be some 25m from the new caravan site. The Council's Environmental Health Unit consider that the new caravan site will not impact upon neighbouring amenity, subject to appropriate conditions regarding the spacing caravans and adequate sewage facilities. With the above circumstances in mind no harm to neighbouring amenity is envisaged.

### Highways Issues

The Council's Transportation Unit consider that no evidence has been submitted to satisfactorily demonstrate that the HGV's and additional caravans will not have a material adverse impact on other road users in Manor Road. In this respect, the Council's highway officer has visited the site and taken measurements. Manor Road is subject to a 20 mph limit and is traffic calmed (speed humps) which reflects the predominantly residential nature of the road. The carriageway varies in alignment and width but is generally between 4.6m and 5.5m wide. There is a continuous footway on the western side but not on the eastern side.

The carriageway currently accommodates farm vehicles as well as general residential traffic. Furthermore, there is an existing caravan site at The Lodge (5 No. pitches) although these are restricted for use by fisherman using the adjacent angling facilities. It is generally accepted that a carriageway width of 4.8m will allow a wide car to pass a large service vehicle such as a pantechicon with an overall clearance of 0.5m. However, the carriageway along Manor Road is, in part, slightly less than this. Furthermore, the horizontal alignment of parts of Manor Road is such that a towed caravan would occupy most of the available carriageway width in these locations. In this connection, it is noted that some caravans can be as wide as 2.55m.

In the event of a towed caravan meeting an oncoming vehicle, it is likely that one of the vehicles would have to over- run the footway to pass, with implications for the safety of pedestrians. The proposed tipping operations would create similar issues but for a temporary period only (one week approximately.)

With the above circumstances in mind it is considered that the 12 additional caravan pitches will be detrimental to highway safety and as such should be refused planning permission.

In addition to the harm from the 12 caravan pitches the Council's Transportation Unit is also concerned that the proposal, if approved, could encourage the submission of other applications of a similar nature elsewhere on the fishery site. Such applications would become progressively more difficult to resist and would result in additional towed caravans travelling along Manor Road to the further detriment of road safety.

### Ecology

As noted by the Council's Ecologist, without ecological information in the form of survey work and potential mitigation measures it is not known if there will be a detrimental impact on ecology on the site or not, and what biodiversity gains would take place. It would not be appropriate to attach a condition in this respect in case any ecological interest cannot be adequately addressed. As such, the proposal would be contrary to the NPPF which notes at paragraph 109 that the planning system should contribute and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains to biodiversity where possible.

### Very special circumstances

Core Strategy Policy CS11 – 'Tourism and the Visitor Economy' states that:

"The Council recognises the contribution that tourism can make to sustainable economic development and job creation. The Council will support development proposals for hotels, conference centres, leisure-related tourism facilities, transport facilities, camping and caravanning sites and visitor accommodation in appropriate locations. Proposals focused on the borough's canal's and rivers will be supported where they can be delivered safely and in line with relevant flood risk policy.

Tourism and visitor developments will be supported which

- a. improve the quality and offer of Rotherham's visitor economy
- b. improve the image and perception of Rotherham and promote the borough as a visitor destination
- c. attract investment to the local area and increase job creation
- d. increase the skills base in tourism associated areas
- e. enhance and conserve the borough's urban and rural heritage, and
- f. utilize existing or replacement buildings wherever possible, particularly outside of existing settlements
- g. are consistent with town centre regeneration objectives
- h. enhance the character and role of Rotherham's country parks, including the provision of appropriate additional recreation, leisure and tourist facilities.

The Council will support proposals for a comprehensive, regional scale leisure and tourist attraction north of Rother Valley Country Park compatible with its location within the Green Belt.

In considering the appropriateness of the location of proposed tourism and visitor developments regard will be had to the proximity to existing and connectivity with other visitor attractions, destinations and amenities, particularly by public transport, walking and cycling”.

UDP Policy EC6.4 Tourism and Visitor Developments and the Environment states:

“All proposals for ‘tourism and visitor’ developments will be assessed against the capacity of the area to cope with the pressures generated and will be required to demonstrate that:

(i) they satisfactorily respect the form, character and setting of any settlement involved and make provision for adequate landscaping,

(ii) they do not conflict with policies to conserve the landscape, the natural environment and the Borough’s heritage,

(iii) they have regard to agricultural and other rural land-use interests and the need to conserve the best and most versatile farmland,

(iv) they make adequate arrangements for the storage of plant, goods and materials,

(v) they conform with policies for transport with particular regard to the suitability of the highway network to cope with the traffic generated in terms of the number, type and size of vehicles involved, during construction and after occupation,

(vi) they make adequate arrangements for site access, local traffic circulation, parking and servicing,

(vii) they have regard to the opportunities available for the provision of public transport, and

(viii) conflict with adjoining land-uses with particular regard to pollution, nuisance, health, safety and visual intrusion has been minimised.”

Paragraph 28 the NPPF states that: “Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;

- promote the development and diversification of agricultural and other land-based rural businesses;”

The applicant as part of his submission has indicated the tourism benefits of the scheme, including users visiting local tourism destinations as part of their stay. The site falls within an existing development of fishing ponds and a smaller caravan park and as such would not be developed on important agricultural land. The Council’s Core Strategy Policy CS11 referred to above clearly supports tourism within Rotherham including caravan sites. The very nature of caravanning sites requires rural locations, which will in nearly all cases involve Green Belt land.

The proposed development would clearly bring localised tourism and economic benefits. However the proposal would also impact upon the openness of the Green Belt and be detrimental to highway safety. The very special circumstances identified do not overcome the identified harm and for the above reasons the application is therefore recommended for refusal.

The Council’s position in relation to the need to take into consideration all harms in the consideration of very special circumstances has been support by a recent High Court decision: Redhill Aerodrome Limited v The Secretary of State for Communities and Local Government and Ors (Case Number: C1/2014/2874.) The high court ruled that other possible "harms", not just green belt issues, had to be taken into consideration in cases where it had to be decided whether "very special circumstances" existed to justify what would otherwise be inappropriate development.

#### Other matters

It is noted that the original planning permission for 5 caravans on the site restricted their occupation to fisherman using the fishing ponds. It is evident from the supporting information submitted by the applicant that the caravans have been occupied on a general basis by visitors to the area, not using the fishing ponds. This matter is being investigated as a separate matter.

#### **Conclusion**

The Council considers that the proposal represents inappropriate development within the Green Belt that would have a detrimental impact on the openness of the Green Belt, as well as on highway safety. In addition, insufficient information has been submitted to assess the ecological impact of the proposed development. The very special circumstances put forward in terms of tourism provision, do not outweigh the harm caused.

#### **Reasons for Refusal**

01

The site of application is within the Green Belt and the proposed change of use for the siting of caravan represents inappropriate development that would have a detrimental impact on the openness of the Green Belt. No very special

circumstances have been demonstrated to clearly outweigh the harm caused by the inappropriate development, and any other harm, and the proposal is therefore in conflict with Core Strategy Policy CS4 – ‘Green Belt’ and chapter 9 ‘Protecting Green Belt land,’ as set out in the National Planning Policy Framework (NPPF).

02

Manor Road is considered to be unsuitable to cater for the significant increase in vehicles (towed caravans) likely to be generated by the proposal in terms of its restricted width and horizontal alignment, such that vehicular/pedestrian conflict could occur to the detriment of road safety.

03

The proposal, if approved, could encourage the submission of other applications of a similar nature elsewhere on the fishery site. Such applications would become progressively more difficult to resist and would result in additional towed caravans travelling along Manor Road to the further detriment of road safety.

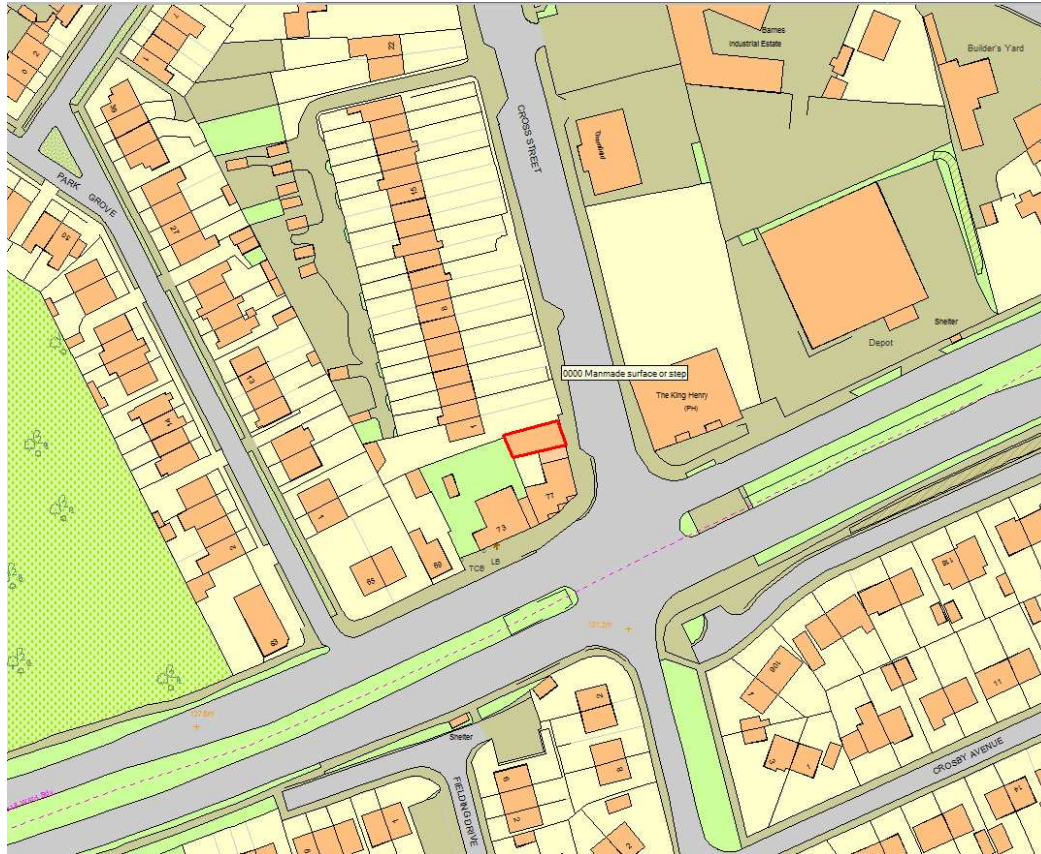
04

Insufficient information has been submitted to assess the impact of the development on ecology at the site and to set out, where necessary, any mitigation measures required, contrary to guidance in the NPPF.

## POSITIVE AND PROACTIVE STATEMENT

Whilst the applicant entered into pre application discussions with the Local Planning Authority these identified that it is not possible to support a scheme of this nature nor would any amendments make it acceptable. The application was submitted on the basis of these discussions and it was not considered to be in accordance with the principles of the National Planning Policy Framework resulting in this refusal.

<b>Application Number</b>	<b>RB2014/1403</b>
<b>Proposal and Location</b>	Installation of new shop front, erection of flue to rear and change of use to hot food takeaway (Use Class A5) at PC Part X Computers 79 Bawtry Road Bramley S66 2TN
<b>Recommendation</b>	Grant subject to conditions



### Site Description & Location

The application site fronts Cross Street at Bramley, although the address is 79 Bawtry Road. The premises are currently vacant and until relatively recently were occupied by the computer business which has now moved into the larger unit at No. 77, which is situated closer to the junction with Bawtry Road.

The property is the end unit in a row of retail properties which wrap around the corner of Cross Street and Bawtry Road, adjacent to the traffic light controlled junction. The properties are located close to the highway adjacent to the back edge of the pavement. They consist of hair dressers with media company above at 73 Cross Street and a at No. 77 (there is no registered address for No. 75). On the opposite side of Cross Street are commercial properties and the King Henry public house.

Residential properties are located adjacent to the site to the northern side where there is a row of terraced properties separating the retail units on this corner of Bawtry Road and Cross Street from the main shopping centre of Bramley. This row of terraced properties is set back from the adjacent highway with long front gardens in excess of 19 metres in length. The nearest property at No. 1 has boundary screening comprising of a low stone wall with a privet hedge approximately 1.8 metres in height.

## **Background**

Planning records show that there was an application for a fish and chip shop sign submitted for No. 77 in 1964 (Ref RB1964/0175).

There is no other relevant planning history relating to this site.

## **Proposal**

The application seeks full planning permission for the installation of a new shop front and the change of use of the premises to a hot food takeaway (Use Class A5), with the erection of a new flue to the rear of the premises.

The property is currently vacant though was recently used for a computer business which has moved into the larger adjacent unit at No. 77 as they require more space for their business.

The proposed new shop front is indicated to be of a similar design to the existing with the installation of an aluminium shop front to replace the existing timber frontage with larger glazed panels to the shop windows. New signage is also proposed and is the subject of a separate application for Advertisement Consent (RB2014/1404).

The submitted plans indicate that the ground floor will be set out with a waiting area to the front, a cooking/serving area behind and a food preparation area to the rear section of the building. The applicant's agent has further confirmed that the flat above the shop is currently empty and have stated that the accommodation will be used for residential purposes and has a separate access to the rear.

The application form indicates that the proposed hours of opening would be 1500hrs – 2330hrs Monday to Sunday.

A Design and Access Statement has been submitted in support of the application which indicates that there is a parking area directly in front of the shop which will accommodate several cars regardless of the residential properties further to the north. It states further that there is a public house directly across the road which contributes to the night time activity and that furthermore the business delivers a fair proportion of the sales hence they consider that the vehicular activity is reasonable.

Further details submitted indicate that deliveries and waste collection will be from the rear yard which is accessed via a covered vehicular access between the buildings and secured by a roller shutter door to the front.

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

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

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

Core Strategy policy(s):  
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):  
ENV3.7 'Control of Pollution'

### **Other Material Considerations**

Shop Front Design Guide.

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

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

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

### **Publicity**

The application has been advertised by way of site notices displayed near the site and by individual letters to the properties immediately adjacent to the site. Eight individual letters of objection and a petition with 8 signatures have been received.

The objections can be summarised as follows;



- The proposed use of the property will affect their enjoyment of their home and have a detrimental effect on the local community.
- The proposed food preparation area is less than 5 metres from the front and side of their home which means they will be affected by cooking smells 7 days a week, especially in summer.
- They will be affected by noise nuisance late at night from customers and their vehicles.
- The proposal will generate litter which can result in a problem with vermin.
- There are no provisions for off road parking. The area is already congested with cars and this will increase the congestion.
- This application will reduce the variety of shops in the area; there are already a lot of takeaway outlets in the area.
- A fast food establishment will encourage youths to gather and result in anti-social behaviour.
- Will lead to an increase in road traffic incidents as drivers are likely to stop suddenly on seeing the new establishment.
- The proposal will impact on trade to existing takeaways in the area.
- There is limited vision turning left into Cross Street and traffic parking inconsiderately will cause an accident.
- There are current problems with delivery drivers and customers parking illegally.

Following receipt of details of the proposed extract flue the application was publicised again by way of neighbour letter and site notice on 23 December 2014. No further comments had been received at the time of finalising the report.

Two Right to Speak requests have been received, one from the owner of a take-away on Flanderwell Lane and one from an adjacent resident at 1 Cross Street Bramley.

### **Consultations**

Streetpride (Transportation and Highways) Unit: Note that the site is located in close proximity to the village centre and has on street car parking facilities available within Cross Street. Taking this into account they have no objections to the proposal in a highway context.

Neighbourhoods (Environmental Health): State that the site of the proposed development is in a mixed area of residential and commercial properties and as such there is a potential for disamenity from noise and odour from the proposed takeaway. Additionally there is a risk of fire for any future tenants of the flat above. In light of the above they recommend that if planning permission is granted conditions should be imposed relating to the installation of an acceptable flue/extraction system, the provision of a litter bin outside the premises, the restriction of opening hours to those requested by the applicant. Environmental Health have also referred to the requirement for insulation of the ceiling space between the shop and the flat above up to current

building/fire regulations, which would be addressed by way of an Informative on any planning permission granted.

## **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 approval for the change of use of the vacant retail premises to a hot food takeaway (Use Class A5) in addition to the replacement of the existing shop front. The issues to be considered in the assessment of this proposal are:

- The principle of the change of use.
- Visual impact of alterations on existing property and the locality
- The impact on residential amenity.
- Highway Issues.

### Principle of change of use:

The property is located at the end of a small row of retail properties which are allocated for residential purposes in the adopted Unitary Development Plan. However, the property forms part of a small retail area and is in close proximity to the main shopping centre of Bramley and the A630 which is a busy classified road. Furthermore it is not uncommon for retail premises to be located in residential allocated areas to serve the needs of local residents.

The NPPF at paragraph 19 states that “The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

Sustainable economic growth is therefore supported by the NPPF and it 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 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 continued use of a commercial

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 area and would be in compliance with one of the key objectives of the NPPF.

Visual impact of alterations on existing property and the locality:

The NPPF at paragraph 17, 56 and 64 outlines the importance of design on the built environment and states that good design is a key aspect of sustainable development and should contribute positively to making places better for people. It further states 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. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping and design and should take all opportunities to improve the character and quality of an area and the way it functions.

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

Furthermore the Council's Shopfront Design Guide recommends that a replacement shop front should respect the period and style of the building in terms of proportion and quality of materials and relate well to neighbouring properties.

The proposed new shop front is indicated to be of a similar design to the existing with the installation of an aluminium shop front to replace the existing timber frontage with larger glazed panels to the shop windows. The proposed flue would be located at the rear of the site and would not be clearly visible from the street scene.

As such it is not considered that the proposals would detrimentally impact on the appearance of the building or its setting within the immediate surrounding area.

Therefore taking account of the above, it is considered that the proposal would accord with the provisions of Policy CS28 Sustainable Design of the Core Strategy, the guidance in the Shopfront Design Guide as well as the

advice contained within the NPPF and the National Planning Policy Guidance (NPPG).

Impact on residential amenity:

Turning to the potential impact on adjacent residents, 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..."

Furthermore 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.

Additionally at paragraph 123 the NPPF states that Planning policies and decisions should aim to "avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development."

The proposed takeaway is indicated to be open between the hours of 1500hrs – 2330hrs seven days a week. Objections to the proposed change of use have been received and the objections relate mainly to the potential impact on local residents arising from cooking smells, noise nuisance late at night, litter, anti-social behaviour and increase traffic and parking problems. The issues of traffic and parking problems are discussed below.

With regard to other impacts the Council's Environmental Health department have stated that the site of the proposed development is in a mixed area of residential and commercial properties and as such there is a potential for disamenity from noise and odour from the proposed takeaway. Additionally there is a risk of fire for any future tenants of the flat above.

In light of the above they recommend that if planning permission is granted conditions should be imposed relating to the installation of an acceptable flue/extraction system, the provision of a litter bin outside the premises, the restriction of opening hours and the insulation of the ceiling space between the shop and the flat above up to current fire regulations.

With regard to Environmental health comments, the applicants have submitted further plans showing the proposed position of the external flue to the rear of the building. A condition is further recommended with regard to the provision of a waste bin outside the premises.

There are other takeaways and a public house in close proximity to the site which contribute to the night time activity in this area, additionally all the properties on Cross Street are set well back from the highway with long front gardens some 19 metres in length and as such it is not considered that the proposed change of use will result in any significant increased impact on the residential amenity of local residents.

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 residential premises.

Highways issues:

The premises are located within a reasonable walking distance of nearby public houses and residential areas, however it is possible that a significant number of customers are likely to be car borne, although the Design and Access Statement submitted in support of the application indicates that a lot of the applicant's business will be through home deliveries.

There is on street parking available to the front of the property and further down on Cross Street and the Transportation & Highways officer does not consider that the proposal would have any detrimental impact in terms of highway safety in this location.

Other matters:

Other issues raised by objectors with regard to the proposal affecting trade to other takeaways in the area are not material planning considerations and cannot be taken into account in the determination of this application.

**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 computer business unit represents an acceptable use in this area and the proposed alterations to the shop front 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

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 GA(--))001, GA(--))002, GA(--))003, GA(--))004)(received 13 October 2014)

#### Reason

To define the permission and for the avoidance of doubt.

03

Prior to the occupation of the building, details of the siting of a litter bin to the forecourt or within the building and arrangements for emptying shall be submitted to and approved in writing by Local Planning Authority. The approved details shall be implemented prior to the first occupation of the unit.

#### Reason

In the interests of visual amenity and to reduce the problem of litter and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

04

All cooking fumes shall be exhausted from the building via a suitable extraction and/or filtration system. This shall include discharges at a point not less than one metre above the highest point of the ridge of the building or any such position as may be agreed in writing by the Local Planning Authority prior to the commencement of the development. The extraction/filtration system shall be maintained and operated in accordance with the manufacturer's specifications, details of which shall be submitted to and approved by the Local Planning Authority prior to installation and it shall thereafter be operated effectively during cooking. All systems shall take into account the document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' published by DEFRA January 2005.

#### Reason

So as to ensure correct dispersion of cooking odours to avoid disamenity to the locality and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

05

The use hereby permitted shall only be open to customers or for deliveries between the hours of 1500 - 2330 Mondays to Sundays.

#### Reason

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

#### Informatives

01

The ceiling space between the ground floor rooms and first floor accommodation space should be insulated and fire protected to the current building regulations and fire regulation standards. To protect the persons living in the accommodation above from potential airborne and impact sound and to protect from potential fire.

#### POSITIVE AND PROACTIVE STATEMENT

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