

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**PLANNING REGULATORY BOARD**

**VISIT OF INSPECTION – THURSDAY, 23<sup>RD</sup> APRIL, 2015**

- 1. RB2015/0237 – Erection of a building for use as soft play area (use class D2) and ancillary café and toilets at Aston Springs Farm, Aston for Mr. Swain.**

***Requested By:-*** Ward Councillor Pitchley

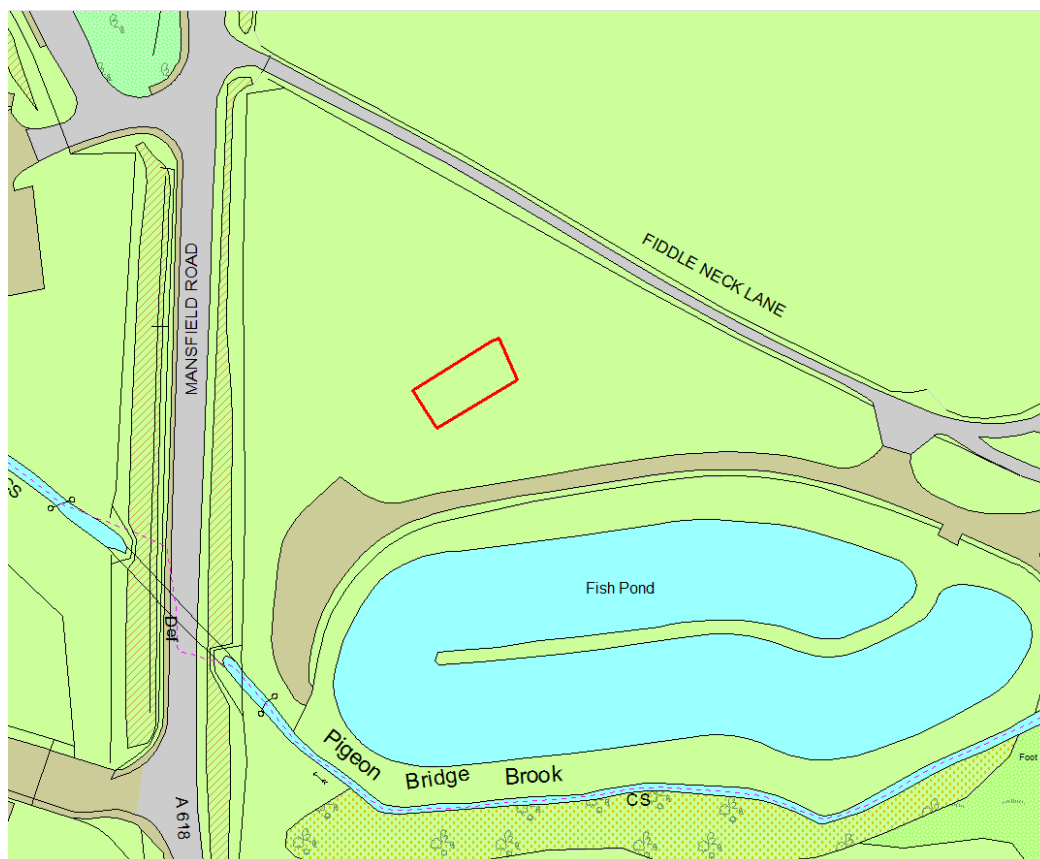
***Reason:-*** To allow Members to familiarise themselves with the site layout and to consider the impact of this proposed development on the surrounding area, because the site is within the Green Belt.

| <u>No.</u> | <u>Application</u> | <u>Area</u> | <u>Arrival</u> | <u>Departure</u> |
|------------|--------------------|-------------|----------------|------------------|
| 1.         | RB2015/0237        | Aston       | 9.25 a.m.      | 9.45 a.m.        |

***Return to the Town Hall for approximately 10.10 a.m.***

## SITE VISIT NO. 1 (Approximate time on site - 9.25 a.m.)

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2015/0237</b>  |
| <b>Proposal and Location</b> | Erection of a building for use as soft play area (use clas D2) and ancillary café and toilets at Aston Springs Farm, Aston, S26 5PQ |
| <b>Recommendation</b>        | <b>Refuse</b>   |



### Site Description & Location

The site of application forms part of an attractive area of countryside to the north of the largest of the existing fishing ponds recently formed and to the south of the access track that serves the ponds from Mansfield Road. Beyond those lakes the land falls away to Pigeon Bridge Brook, which crosses the landscape east to west. Beyond the Brook is an area of open land, also in the applicant's ownership, and then a railway line with embankment. The applicant also owns a field to the east of the ponds (approximately 2.1 hectares). Further on along the access track are more fishing ponds, under separate ownership.

The main farm building is a modern stone built building containing offices, chicken pens, pig sty, egg processing plant, shop, cafe and storage. The farm is run as a visitor attraction and includes hobby fishing as an income stream.

In recent months work has commenced on two agricultural buildings approved under a prior approval application RB2014/0415. The stone dwarf walls have since been completed and the site is awaiting the metal superstructure and cladding.

## **Background**

The most recent and relevant applications relating to this site are:

RB2010/0680 - Erection of a single storey building with rooms in roofspace for keeping of livestock, 2 No. waste tanks, associated parking and formation of access off Mansfield Road – REFUSED. Appeal dismissed. The Inspector considered that the proposal did not represent inappropriate development in the Green Belt but that it would have an impact on openness and that, more significantly, insufficient information had been submitted in respect of drainage relating to the building.

RB2011/0293 - Erection of farm building to form free range farm with associated parking, new access and cesspool - GRANTED CONDITIONALLY. The building approved was significantly smaller than the one refused permission, in 2010 and dismissed on appeal. It has a footprint of 406 sqm, compared to the permitted development limit for agricultural buildings on holdings of 5 hectares or more of 475 sqm, and only required planning permission because it is within 300m of residential properties across the A57 to the north.

RB2012/1555 - Use of part of building as café - GRANTED CONDITIONALLY

### Conditions

02

The café use shall be ancillary to the agricultural and retail activities carried out on the site.

### Reason

The site is not suitable for a general café use in this Green Belt location.

03

The café use hereby permitted shall only be open to customers between the hours of 10.00 to 16:00.

### Reason

To link the use to that of the farming activities as the site is not suitable for a general café use in this Green Belt location.

RB2014/0415 - Prior notification re: erection of agricultural barn - GRANTED CONDITIONALLY. This building was formed by two separate elements, connected by a single storey link.

## Proposal

The applicant seeks permission to erect a large barn type building to form a new café and indoor children's play area. The building will measure 5.8m high by 28m wide and 9.6m deep. The building is to be constructed with a stone dwarf wall, with timber cladding above and a sheet metal roof. Internally it would provide the play area (145 sqm) and café (97 sqm) as well as ancillary toilet provision.

The design and location is similar to one element of the overall agricultural building previously approved under prior approval RB2014/0415, which was approved for only agricultural purposes. The erection of this building has commenced though not been completed. The other element of the building previously approved would be retained for accommodating animals, though no link between the two buildings is now proposed. The play facility building would be constructed with horizontal timber cladding as opposed to the vertical hit and miss timber cladding previously proposed and would contain more door/window openings than previously approved for the agricultural building.

Provision for a total of 22 car parking spaces is available on the site which would serve the proposed facility.

No additional staff are proposed (currently 13 full time and 9 part time) and the building would be open between 10am and 4pm seven days a week.

The applicant's supporting statement states that:

- It must be stressed that the proposal together with the agricultural need arising from the operation of the farm has been carefully considered and with a careful management of the farming enterprise the essential needs of the animals could be accommodated in the other agricultural building so the approval of the current proposal will not result in the need for another agricultural building.
- The site is now well established as an open farm that is a popular visitor attraction and also sells products such as pork and eggs that are produced on the farm. It makes a valuable contribution to the local visitor economy, is a source of employment (a total of 13 full time, 9 part time and 5 volunteer jobs) and provides practical training for students from Rotherham College.
- The operation of the facilities has however identified the need for additional under cover accommodation to be provided to serve visitors to the site. The proposed building is intended to provide a soft play area, additional café space and toilets. All of these facilities are to be operated in connection with the farm enterprise and not as separate facilities open in their own right. The soft play area would provide an additional facility for families especially those with very young children

who may not have the stamina to complete the entire farm trail and need to be occupied under cover while waiting for older siblings.

- The existing café is well used: it provides 30 seats and is open for 6 hours a day. Especially at weekends and in the school holidays it is frequently full all day. Additional space would not only ease overcrowding but would also provide an indoor space when school groups are visiting so they can receive instruction about the farm operations and animals prior to going on the farm trail and where they can have refreshments.
- The construction of a building of the size proposed to serve a leisure purpose rather than being directly related to agriculture may be considered as inappropriate development in the Green Belt which requires very special circumstances to justify it. As noted above the use of the building is in connection with the use of the larger site for agriculture. It is well related to the other buildings on the site and does not extend the built development on the site into the surrounding open area. The building will also support the growth of this agriculturally based tourist attraction in accordance with development plan policies and national planning guidance. These factors would provide the very special circumstances to justify the development. It must also be noted that a similar justification has been accepted by the Council in relation to buildings at the Tropical Butterfly Farm at North Anston and at the Wentworth Garden Centre.
- With regard to highway considerations the site is served by an access that was created to serve the open farm. There is a car park which has space for 10 cars (including 2 disabled spaces) but there is also space for cars to park along the internal site roads and in the spaces provided for fishermen. The provision of the proposed new facilities is to be ancillary to the existing use rather than to introduce a new use that would greatly increase the level of traffic visiting the site. In view of this and the adequate existing provision within the site no additional car parking is proposed.

The applicant's sequential test states that:

- This site is well outside of any town centre but the proposal is for ancillary facilities to the existing farm enterprise and is not intended to attract any passing trade purely to the facilities to be provided within the application building (all as set out in the planning statement attached to the submitted application). The proposed facilities are intended to provide more facilities for customers visiting the farm and promote this agriculturally based tourist enterprise. It would clearly be unsustainable and be completely unworkable to expect customers to travel from the farm to a town centre to use the associated facilities. The farm must be on a rural site because of the nature of the business and the most sustainable location for ancillary facilities is on the same site.

- In view of the above and the advice set out in paragraph 25 of the NPPF no study of alternative sites in or around the nearest town centres (Aston and Wales) has been undertaken.

### **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):

CS4 – 'Green Belt'

CS11 – 'Tourism and the Visitor Economy'

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

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. One letter of objection has been received from Aston Parish Council “on the basis that the intended use is no longer for agricultural purposes therefore it would be unnecessary development within the green belt.”

## **Consultations**

Streetpride (Transportation & Highways Unit): Note from the submitted details that the proposed soft play area and café will be accommodated on part of the site of the agricultural building approved under RB2014/0415, (partly constructed at present). The applicant has indicated that the uses are intended to supplement other facilities at this site which include a farm shop and animal viewing attraction for members of the public, though there is concern that it could become a destination in its own right, as appears to have occurred with the original café approved on the site. Notwithstanding this concern it is not anticipated that a material increase in traffic during peak hours would occur, and it is considered that there is sufficient parking provision for the proposed facility.

In terms of sustainability, there are frequent bus services along A618 Mansfield Road although there is no footway linking the site access with the northerly bus stop. There is also the potential for “linked trips” as people visiting the play facility also visit the farming activities, as suggested by the applicant.

Neighbourhoods (Environmental Health): Would envisage no significant loss of amenity by virtue of noise, air quality or land pollution impact and as such would raise no further comment.

## **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 indoor leisure use in the Green Belt and impact upon the openness of the Green Belt
- Sequential test regarding the out of town location
- Design and appearance
- Highways issues
- Residential amenity
- Very special circumstances

#### Principle of the indoor leisure use 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."

NPPF paragraph 89 states that: "A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development".

With the above guidance in mind the proposal does not accord with any of the exceptions set out above and represents inappropriate development. The indoor play area and associated café cannot be said to represent appropriate facilities linked to outdoor recreation.

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."



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 very substantial building would have an urbanising effect on the Green Belt and encroach into the countryside. Whilst it is acknowledged that a similar sized building has been approved under prior approval, this was for agricultural purposes and any harm to the openness was weighed against the applicant's essential need for an agricultural building. The applicant had indicated at that time that the barn was essential as the farm needed indoor accommodation for pigs and cattle and that in the previous winter a number of pigs had been lost to cold related illnesses.

For these reasons the harm by inappropriateness is compounded by the urbanising impact that the building would have, and its general impact on the openness of the Green Belt in this location 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.

#### Sequential test regarding the out of town location

This application seeks permission for a D2 Indoor Leisure use comprising of a soft play area with associated café which are considered to be main town centre uses, as defined in the NPPF, and therefore Paragraphs 24-27 of the NPPF and Core Strategy Policy CS12 are applicable.

Core Strategy Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' 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.

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.”

The applicant has indicated that the proposed use is ancillary to the on site farm visitor attraction and as such they do not consider that a sequential test is required. However, it is not considered that the indoor play area is intrinsic to the farm attraction and does not specifically relate to visitors viewing the farm, and nor is it a tourist attraction in its own right. With regard to the proposed café a substantial café has already been approved on site, the new café could therefore create a situation where passing trade has to be attracted to generate the demand for the two café uses. Indeed it would appear that the current café, operating more as a restaurant, is generating passing trade as well as trade from visitors, notwithstanding the condition attached to the previous permission for the café which stated that it should be ancillary to the agricultural and retail activities carried out on the site.

In particular the restaurant website states that “The Bistro evenings continue to be very successful and we have now introduced themed evenings. These must be booked in advance.” Evening opening appears to be a breach of the existing planning permission which includes a condition limiting the café to be ancillary to the agricultural and retail activities and importantly also limited the opening hours to 10am to 4pm. This will be raised with the applicant as a separate matter.

Given the evidence above regarding the operation of the existing café / restaurant, there are concerns that the play space/cafe could also become a destination in its own right and the site may attract visitors wanting to use the play area as opposed to the farm itself. In any case this represents a cumulative increase in activity on site. There is no evidence submitted which indicates how this element would operate in conjunction with the other activities on site. Furthermore no sequential assessment of the D2 use has been provided.

## Design and appearance

Policy CS28 'Sustainable Design,' states that: "Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping."

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

In this instance the new building is to be constructed in horizontal timber cladding with a sheet metal roof. Four large double door openings are proposed to the front, whilst to the side elevation 3 windows are proposed for the café use. The proposed building will have an agricultural appearance with timber cladding and a metal roof typical on modern agricultural buildings. Notwithstanding the harm to the openness of the Green Belt referred to above, the design of the building is considered acceptable in its context.

## Highways Issues

The Council's Transportation Unit note from the submitted details that the proposed soft play area and café will be accommodated on part of the site of the agricultural buildings approved under RB2014/0415, (partly constructed at present). The applicant has indicated that the uses are intended to supplement other facilities at this site which include a farm shop and animal viewing attraction for members of the public, though there is concern that it could become a destination in its own right, as appears to have occurred with the original café approved on the site. Notwithstanding this concern it is not anticipated that a material increase in traffic during peak hours would occur. In terms of sustainability, there are frequent bus services along A618 Mansfield Road although there is no footway linking the site access with the northerly bus stop. There is also the potential for "linked trips" as people visiting the play facility also visit the farming activities, as suggested by the applicant.

## 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 site is isolated, with the nearest residential dwellings some 300m away on the Redmile residential development site to the north of the A57. As such no harm to neighbouring amenity will occur.

### 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 their submission has indicated the tourism benefits of the scheme and that very special circumstances exist by way of supporting the agriculturally based tourist attractions on site. As referred to above it is not considered that the proposed use is incidental to the existing on site use, or that the use of the building as a play area is intrinsically a tourist related activity in its own right. As such, it is not considered that very special circumstances have been demonstrated in this instance.

The applicant has highlighted examples at Wentworth Garden centre and the Tropical Butterfly House of examples of similar tourist attractions in the Green Belt, where a large number of buildings and different uses have been allowed. Both these sites have outdoor play areas, rather than indoor play areas and in the case of the Tropical Butterfly House this is a major regional tourist attraction attracting some 125,000 visitors a year.

## **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. In addition the applicant has failed to demonstrate that the proposed uses cannot be accommodated in nearby town centres. It is not considered that the proposed development is directly related to tourism, or sufficiently related to the existing visitor facilities on site, and as such no very special circumstances have been demonstrated to justify the harm caused. In view of the above it is recommended that planning permission be refused.

## **Reasons for Refusal**

01

The site of application is within the Green Belt and the proposed building to accommodate the D2 and A3 uses 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

The proposed development is not considered to be ancillary to the agricultural activities that take place on the site and would be located on an out of centre site as defined by the National Planning Policy Framework. The application fails to satisfactorily demonstrate that there are no suitable, available or viable sites for the combined soft play area and cafe development in sequentially preferable locations. The proposal thus fails to comply with the requirements of the sequential approach set out in Core Strategy Policy CS12 as well as paragraph 24 of the National Planning Policy Framework.

## **POSITIVE AND PROACTIVE STATEMENT**

The applicant did not enter into any pre application discussions with the Local Planning Authority. Discussions during the determination of the application have identified that it is not possible to support a scheme of this nature nor would any amendments make it acceptable. It was not considered to be in accordance with the principles of the National Planning Policy Framework and resulted in this refusal.