

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 18<sup>th</sup> January 2024**

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

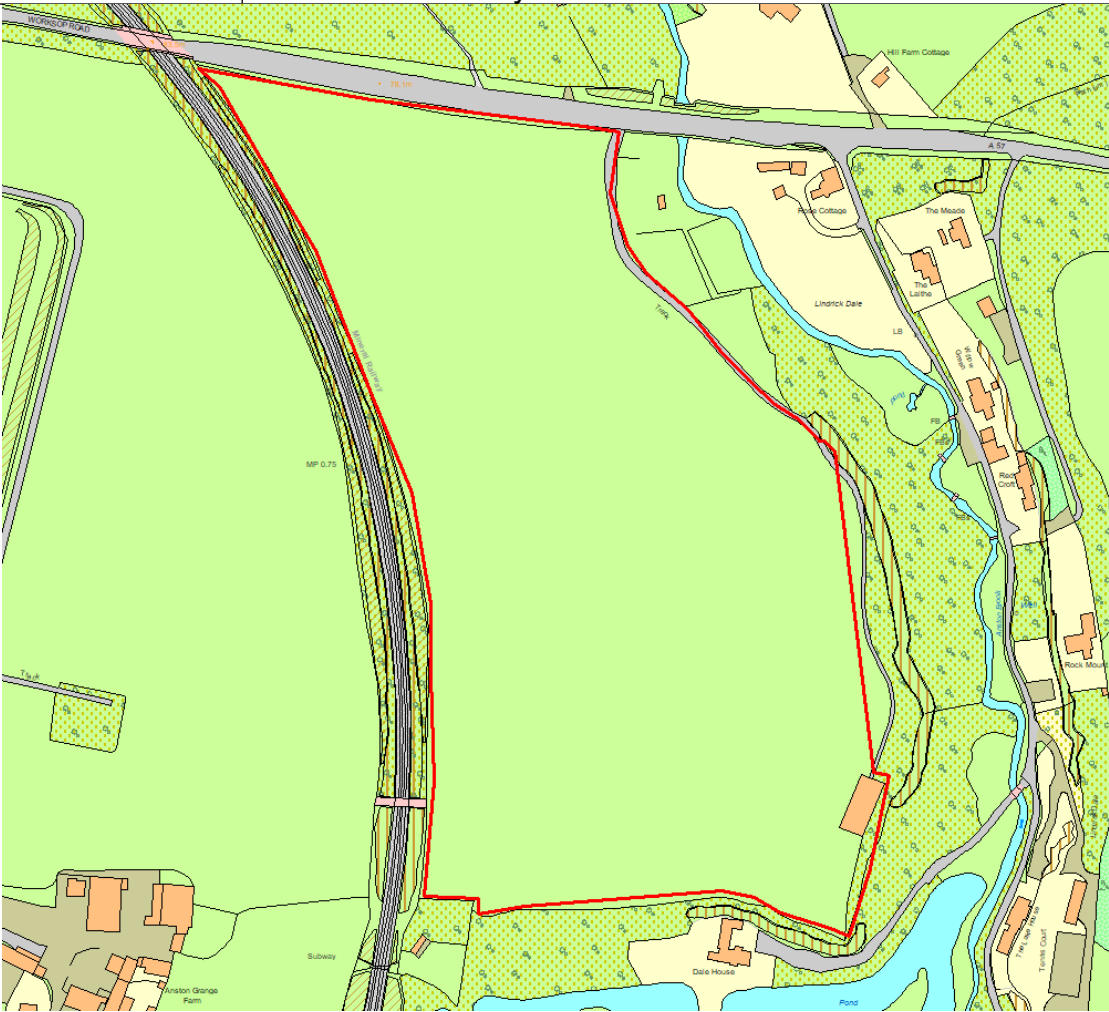
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<b>RB2023/1132</b> <b>Widening of existing access and access track, formation of additional access tracks within the site, (including partial relocation of existing access track and provision of passing bays), erection of building to house borehole equipment and erection of water tank at Lindrick Nursery Worksop Road Lindrick for Carrier Landscapes Ltd.</b>	<b>Page 14 onwards</b>
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**REPORT TO THE PLANNING BOARD  
TO BE HELD ON THE 18<sup>th</sup> January 2024**

**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>RB2023/1132</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/1132">https://rotherham.planportal.co.uk/?id=RB2023/1132</a>
<b>Proposal and Location</b>	Widening of existing access and access track, formation of additional access tracks within the site, (including partial relocation of existing access track and provision of passing bays), erection of building to house borehole equipment and erection of water tank, Lindrick Nursery, Worksop Road, Lindrick
<b>Recommendation</b>	Grant Conditionally



**ADDENDUM**

The application was considered by Planning Board on 14/12/23 though Members were not disposed to support the officer recommendation and the application was deferred in order that additional information could be submitted, particularly in respect of the number and size of vehicles accessing the site. The original report is included in its entirety below at Appendix 1.

The applicant has since submitted further information in the form of a proposed Unilateral Undertaking (under Section 106 of the Town and Country Planning Act) and revised/additional recommended conditions to address the concerns raised, as follows:

- Unilateral Undertaking to restrict the number of vehicles over 18 tonnes in any 3 month period to 26 (an average of 2 a week), with a log being kept of such movements and made available on demand by the Local Planning Authority.
- Condition 3, movement of all vehicles, to be restricted to 19.00 hours in the evening, as opposed to 22.00 hours.
- Condition 4, movement of 7.5 tonne vehicles, to be restricted to 17.00 hours in the evening, as opposed to 20.00 hours, and for no such movements on Sundays, as opposed to between 09:00 and 18:00.

The Unilateral Undertaking and revised conditions are considered acceptable and it is once again recommended that planning permission be granted, subject to the signing of the Unilateral Undertaking.

### **Conditions**

01

The permission hereby granted shall relate to the area shown outlined in red on the approved location plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans and submitted with the application. In this respect, the proposed realignment of the access track within the site, away from the eastern boundary, shall be carried out within 6 months of the date of this decision.

Reason

To define the permission and for the avoidance of doubt.

02

The new access tracks and passing places shall be constructed in crushed rock in accordance with the approved plans.

Reason

To ensure that surface water can adequately be drained and in the interests of visual amenity.

03

Except in an emergency no vehicle shall enter the site outside the hours of 07:00 and 19:00 Monday to Sundays.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

04

Except in an emergency no vehicle of over 7.5 tonnes Maximum Authorised Mass (MAM) including heavy plant shall enter or exit the site outside the hours of 08:00 and 17:00 Monday to Saturday and **not at all** on Sundays.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

05

Within 1 month of the date of this decision, details of the angling and/or cowling of all existing floodlighting on the building shall be submitted to the Local Planning Authority, and the subsequent approved details shall be implemented within 1 month of their approval. No additional lighting shall be installed on site without prior written approval of the Local Planning Authority.

Reason

In the interest of local amenity and ecology in accordance with Policy SP52 Control of Pollution and Policy SP35 'Protected and Priority Species'.

06

The site shall be used as a garden nursery and no members of the public shall visit the site.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

07

Within 1 month of the date of this decision, details of the drainage of the access at its junction with the public highway shall be submitted to the Local Planning Authority, and the subsequent approved details shall be implemented within 1 month of their approval.

Reason

To prevent the flow of excess water into the public highway in the interests of highway safety.

#### 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.

## **APPENDIX 1 – Original Board Report**

The application is being considered by Planning Board due to the number of objections received.

### **Site Description & Location**

The application site is Courier Landscapes a newly formed agricultural business covering 12 hectares of land accessed off Worksop Road, near Lindrick Dale. The site contains a large building, constructed approximately 20 years ago, as well as associated structures and buildings linked to the horticultural use on site. Some of these structures, as well as the recently widened access and associated track, form part of this application.

To the east of the site are residential properties on Lindrick Dale, with a rock face that runs along part of this boundary.

### **Background**

RB1996/0847 - Outline application for the erection of a building for the breeding of ponies - GRANTED CONDITIONALLY

RB1997/0099 - Details of the erection of an agricultural building for the storage of feed stuffs and equipment and the occasional breeding of ponies (matters reserved by outline R96/0847P) - GRANTED CONDITIONALLY

RB2022/1384 - Retrospective application for improvement to site entrance, security fencing and gate – WITHDRAWN

RB2023/1131 - Prior Notification of intent to erect four polytunnels (Permitted Development under Part 6 of the Town & Country Planning (General Permitted Development) Order, 2015) - GRANTED CONDITIONALLY

It is understood that a former owner of the building died in 2011 after an accident in the building on site and that another local farmer purchased the entire contents of the barn as a job lot, which included a tractor, machinery and general farm equipment. The farmer was unable to remove the contents for a number of years due to the probate of the will, by which time the barn had been broken into and anything of value stolen and the remainder ransacked. The farmer continued to make and remove the hay crop annually from the land.

It is also understood that, prior to the purchase of the land and building by the current applicant, it was being used for drug taking and storage of stolen goods. The applicant indicates that since they have taken over the site they have cleaned it up and used to grow trees/shrubs/plants that are primarily used to provide appropriate landscaping on residential building sites.

### **Proposal**

The proposal involves the widening of the existing access at the entrance to the site off Worksop Road, as well as the widening of the access track itself as it runs through the

site, formation of additional access tracks within the site, including partial relocation of existing access track away from the eastern boundary and provision of passing bays. The additional access tracks within the site will ease access to the various growing areas and aid in planting operations as well as in the removal of grown stock. In addition, the proposals relate to the erection of a building to house borehole equipment, and the erection of a water tank.

Other than the partial relocation of the access track away from the eastern boundary, the proposed development has already been carried out and the application has been submitted to regularise these developments that have taken place, following concerns raised by nearby residents.

#### Planning Statement:

- This states that the proposal encompasses a range of developments, ultimately proposed to increase the efficiency, yield and safety of the existing horticultural use.
- The proposal provides improvements to the existing horticultural use, and will result in no changes to this use. It has been established that the built development is commensurate to the existing development, and so the principle of development is considered acceptable in accordance with Policies CS4, CS9, SP2, SP7 and SPD No.3 as well as NPPF Paragraphs 81, 84 and 149.
- In addition to the commensurate scale and use of the proposed structures, the proposal has been designed so as to not harm the wider landscape. The proposed track alteration, cabin and water tank will not be clearly visible from the public realm, and those changes which are visible in and around the access have been offset through the landscaping of the site boundary. The proposal retains the existing character of the area, and complies with Policies CS21, SP2, NPPF Paragraphs 130, 131 and SPD No.3.
- The proposed access and track alterations improve the safety standards of vehicle movements both on the public highway and private internal tracks. It has been clearly established that the track alterations are of benefit to the geology of Lindrick Dale and the residential amenity and safety of residents. In this regard the proposal conforms with Policies CS20 and SP33 and NPPF Paragraphs 92, 111 and 130.
- When considering the proposal's accordance with the development plan, the wider result of the development should be considered. Ultimately the proposal aims to improve the current use of growing flora, mainly trees, to be used in developments around the country. This landscaping will both benefit the site itself, and enable the requirements of the NPPF to be met in other development.
- Having considered matters of principle, design, scale, layout, and residential amenity, highways and access, landscaping, geology and drainage it is considered that the proposal is in accordance with the Development Plan and would not give rise to any significant adverse impacts which outweigh its demonstrable benefits to privacy and, most importantly safety. As it complies with relevant Development Plan and the presumption in favour of sustainable

development, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) the application should be granted planning permission without delay.

#### Highway Technical Note:

- This Technical Note has demonstrated that satisfactory access can be achieved in line with recognised standards and prevailing conditions, in particular regarding visibility which was a concern originally raised by the Council's Transportation Service. This is through a visibility assessment which has been completed using topographical survey mapping, showing that the required visibility splays of 181 metres to the west and 147 metres to the east, calculated from the speed survey results, are achievable on both the horizontal and vertical planes.
- Based on the information provided in this report, it is considered that Rotherham Borough Council should now be satisfied that the required visibility is achievable from the widened site access.

#### **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 the Sites and Policies Document which was adopted by the Council on the 27th June 2018.

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

##### Core Strategy Policies

CS4 Green Belt

CS19 Green Infrastructure

CS20 Biodiversity and Geodiversity

CS21 Landscape

##### Sites and Policies

SP2 Development in the Green Belt

SP32 Green Infrastructure and Landscape

SP33 Conserving and Enhancing the Natural Environment

#### **Other Material Considerations**

##### **Supplementary Planning Document – 'Development in the Green Belt'**

**The NPPF (as revised) states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise."**

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

#### **National Planning Practice Guidance (NPPG)**

## Publicity

The application has been advertised by way of site notice and individual letters to neighbouring properties. Letters of objection have been received from the occupiers of 16 properties, along with a letter of objection from Alexander Stafford MP and Councillor Wilson.

The objectors state that:

- Visibility splay is partially over third party land, so cannot be guaranteed. Visibility obscured by parked vehicles in layby and by bus when parked at the bus stop to the east of the entrance.
- The highway access is dangerous.
- Planning application RB2016/1539 at Harry Croft quarry refused due to poor visibility. And in the original applications in 1996 and 1997 the Council's Transportation Officer raised concerns about access to the Highways Agency.
- Vehicles leaving the site are unable to accelerate quickly enough into traffic flow.
- Access should not be used until a suitable drainage plan has been put into place.
- The fence that has been erected at the entrance has blocked a right of way over third party land.
- Concern over anti social behaviour from people parked at the entrance, in front of the gates that have been erected, would like bollards erecting to prevent this.
- The steel shipping container used for the pump house, and the water tank are an eyesore, should be of better design.
- Any water from installed irrigation system should not discharge onto adjoining land, including rock face.
- No tree, ecology, or bat surveys produced. Impact of light and noise on wildlife.
- There are two separate planning units, one being horticulture and the other being the storage of landscaping machinery and distribution of aggregates from the aggregate bays, which are unrelated to tree growing. Aggregates stored at the site are not used on the site. Domestic vehicles enter the site around 6:00 AM to 6:30 AM and then occupants leave around 7:00 AM to 7:30 AM in commercial vehicles towing trailers with hardcore, cement mixers, diggers, sit on lawnmowers fencing materials etc.
- The applicant's website and photos from the applicant's Instagram account refers to the 'depot' use, and there are job adverts referring to the depot and descriptions of the activities and when staff would be expected to be at the depot.
- The original approval for the barn in 1996 and 1997 was for pony breeding, which is not regarded as agriculture but as "horsiculture."
- The use is considered detrimental to the visual and environmental quality of the landscape.
- Original application specifying the purpose of the building as pony breeding, not for commercial purposes. The building on site is used for storage and distribution purposes and not agriculture.
- The existing building on site was abandoned for many years and any new use on site requires planning permission.
- The existing on site use is not horticulture and a full change of use planning permission is required for the Sui Generis use on site.
- Passing bays on the proposed widened access demonstrate an increase in traffic use, further evidence of commercial use.



- There will be noise and light pollution of the distribution of materials that take place.
- Commercial activities should take place on brownfield sites.
- Impact on human rights - flood lights come on at 6:15 AM
- Noise from alarms on the site. Break ins at the site introduce a risk to local community.
- Impact of dust
- The application is retrospective.
- Impact on Sheffield Aeroclub (at Netherthorpe airfield).
- An environmental impact assessment has not been produced.

Alexander Stafford MP states: "I have spoken with many residents in Lindrick Dale who have been concerned about some time about plans for this site. This is a beautiful part of the world, in Green Belt and must be protected from inappropriate development. There are very valid concerns regarding access on to the A57 which are not suitable for a business. I support the residents of Lindrick Dale in their request for this application to be rejected."

Councillor Wilson – Notes that it is not clear that the applicant owns all the land within the application site, and a right of way has been blocked. Large vehicles entering and exiting the site at unreasonable hours which is causing noise and general disturbance. Conditions should be attached to avoid this.

The applicant and 5 local residents/Councillors have requested the right to speak at the Meeting.

## **Consultations**

Transportation Unit: No objections

Environmental Health: Notes that there is potential for noise disturbance to nearby noise sensitive premises should the frequency of use of the track by vehicles be increased, especially by HGVs including heavy plant. Adverse impact on nearby residents will be more likely should these vehicle movements occur early morning, late evening and at night-time. It is therefore necessary to impose restrictions on vehicle movements in order to reduce potential adverse impact on residents.

Environment Agency: No objections to the borehole

South Yorkshire Geological Society: No objections

RMBC Drainage: No objections

## **Appraisal**

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

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

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

The main considerations in the determination of the application are:

- The lawful use of the site and existing building
- The principle of development and impact on the Green Belt
- Highway safety
- General amenity issues
- Siting and design
- Landscape and trees
- Ecology and Biodiversity
- Borehole
- Land ownership issues
- Other matters raised by the objectors

#### The lawful use of the site and existing building

Many of the objections submitted relate to the uses being carried out on the site, both within the building and on the overall site itself.

Firstly, in terms of the existing main portal framed building on site, outline planning permission was originally approved for an equestrian building within the field as part of outline planning permission RB1996/0847. The permission included a condition restricting the use of the building for the breeding of ponies and for no commercial purposes:

03

*The building hereby granted shall be used solely for the breeding of ponies and associated storage and shall not be used for any commercial purposes including riding school, livery, stabling or trekking centre.*

The subsequent reserved matters application RB1997/0099 included an amended description of the building; "agricultural building for the storage of feed stuff and equipment and occasional breeding of ponies". A letter from the applicant's agent at that time indicated that the outline application was for the erection of a steel framed agricultural building for the storage of feed stuffs and equipment and the breeding of Dales ponies (the wording on the application form). The letter added that the applicant owned the surrounding land which would be used for the production of feed stuffs and fodder for sheep that will graze on the land, as well as for the ponies, and a note on the file from the Planning officer indicates that the principal of the building will remain agricultural with the pony breeding being a more occasional and minor use.

In terms of the description of the reserved matters approval, whilst it refers to the building as agricultural, a reserved matters permission cannot change the use set out in the original outline planning permission and as such the approved permission was for an equestrian use which was controlled by Condition 3 of the permission.

Whilst planning permission was approved for an equestrian building, it is unclear as to whether the building (which was constructed in the early 2000s) was ever used for equestrian purposes, with the surrounding land appearing to remain in agricultural use,

as indicated would be the case by the appellant's agent. In addition, the building was constructed approximately 30m further south than as shown located on the approved plans from 1996/7. This difference is so substantial that officers consider that the building has not been built in accordance with the approved plans and does not benefit from any planning permission. Furthermore, the highway access improvements required under the reserved matters were never undertaken, further supporting the conclusion that the as build development is not the development that was granted planning permission.

As a result, the building is an unauthorised building and which through the passage of time (20 years) is exempt from enforcement action (where a building has been erected for more than 4 years and no formal enforcement action has been taken, as occurs here). Under such circumstances, the conditions attached to the original permission (restricting the use to equestrian purposes only) do not apply.

It is unclear what use the building was used for and if it related to agriculture, the building itself was unused for some 10 years following the original owner's death and prior to the current occupant purchasing the building in 2022. Irrespective of the past use of the building Section 55(2)(e) of the Town and Country Planning Act 1990 states that; "the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used does not involve development for the purposes of the Act." As the building is not bound by the condition attached to RB1996/0847 there is nothing that prevents the building being used for agricultural purposes applying s.55(2)(e) of the 1990 Act.

All in all, this puts into question the validity of the original permission for the building, and whether it has been implemented, though in any event the use of the building for agricultural purposes is acceptable in this rural location.

In respect of the overall use of the site, it is considered that the current use is for a horticultural business, involving growing plants for landscape schemes undertaken by the applicant off site. Section 336 of the Town and Country Planning Act 1990 provides the definition of "agriculture" as including "horticulture" as well as "market gardens and nursery grounds," amongst other things.

The applicant has indicated that currently, two full time horticulturists are employed at the site with their roles being the growing, tending of trees and shrubs, potting, standing down and pruning stock and collating orders. Once the poly tunnels (recently approved under prior notification application RB2023/1131) are completed another member of staff will also be employed in horticultural activities. Two vehicles are used for transportation of trees and plants to customer's premises and the applicant indicates that two staff members are employed with regard to the transportation of plants to customers.

The applicant is looking to produce at least 80,000 trees and plants per year which would require eight full time horticulturists, although the site has potential to produce up to almost 100,000 trees and plants per year.

The primary concern raised by objectors is that the actual use is more akin to a mix of agricultural and B8 storage and distribution uses, with many plants and materials simply imported for the business stored on site for off site landscaping jobs.

In the first instance it is clear that agricultural activity is taking place on site with a horticultural use being established, and the growing operations increasing in intensity. Whilst the distribution vans are often kept on site, this is not unusual for an agricultural use, with all forms of agriculture involving some elements of storage and distribution, such as a dairy farm where milk is distributed in large tankers off site on a daily basis. The storage and distribution elements directly relate to the horticultural activities and are not considered to require planning permission in their own right. In this respect, the applicant has indicated that most of the materials in the open bays next to the building that had been formed were used on the site, with only approximately 5 to 10% used off site, and that no paving/fencing etc was stored at the site that would normally be associated with hard landscaping.

With these circumstances in mind the Council considers that the land and building can be used for agricultural purposes without the need for any change of use. The activity taking place overall on the site is considered to fall within an agricultural use, and whilst an element of commercial use does take place, it is not considered to result in a mixed use.

#### Principle of Development within the Green Belt

Local Plan Policy SP2 'Development in the Green Belt' states that: "All new buildings should be well related to existing buildings, where relevant, and should be of a size commensurate with the established functional requirement."

Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include (amongst other things):

- (a) Buildings for agriculture and forestry;

Paragraph 150 states that: Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are (amongst other things):

- (b) engineering operations;

The current application relates to the widening of the existing access and the existing access track within the site, partial relocation of the access track away from eastern boundary, formation of additional access tracks within the site, erection of building to house borehole equipment and erection of water tank. The building and water tank are directly associated with the agricultural use of the site and are located close to the existing large building on site, and as such, are appropriate development under paragraph 149a.

The engineering works required to widen the access and form additional tracks within the site would not have a significant material impact on the openness of the Green Belt as to a large extent they would merely widen a track that has been in existence for many years. The purposes of including land within the Green Belt are set out at paragraph 138 of the NPPF. Given the scale and nature of the works proposed it is not considered that the engineering works conflict with the purposes of including land in the Green Belt and as such are not inappropriate development under 150(b).

The works outlined above, all relate to the agricultural activity on site including the improvements to the access and the new borehole. The works proposed that have been undertaken fall either within the exception for development within the Green Belt set out in paragraph 149(a) (Buildings for agriculture and forestry) or paragraph 150(b) (engineering operations) of the NPPF.

The proposed development therefore does not represent inappropriate development within the Green Belt.

### Highway Safety

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 notes at paragraph 109 that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

As referred to above, the original approval for the equestrian building on site required improvements to the site access. These improvements do not appear to have ever taken place, as such the longstanding access was poor and inadequate to accommodate traffic movements to and from the site (it should be noted that the Highways Agency were consulted at that time as the A57 was a Trunk road then, but this is no longer the case). The works to improve the access under the current application have already taken place, with the access increased to 11.2m wide to allow improved visibility and access off the busy Worksop Road.

The applicant's agent has submitted a highway technical note, demonstrating that the vehicle access meets with current guidance in respect of the visibility splay in both directions. It shows a splay of 2.4m x 181m in a westerly direction, and 2.4m x 147m in an easterly direction, and the Transportation Service is satisfied that the exercise undertaken in establishing this visibility splay is robust and in accordance with the latest industry guidance. It is noted that the visibility splay identified wholly falls within the adopted highway, and none crosses third party land.

Objectors note that vehicles can park in the lay-by to the west of the access, though this is not a lay-by and cars should not be parked in that location. The lay-by is located further up Worksop Road and is delineated by a change in surfacing material and by broken white lines as opposed to a solid white line. Another objector notes that when a bus is parked in the bus stop lay-by to the east of the access it obstructs visibility, though the visibility splay proposed does not cross this bus stop lay-by.

An objector refers to planning application RB2016/1539 at Harry Croft quarry being refused due to poor visibility, though this application was refused against officer recommendation (and the recommendation of the Transportation Officer in respect of access), and an appeal against that refusal was allowed with the Inspector noting that the visibility was acceptable. That access is in any event different to the one currently being considered.

In terms of the widening of the existing access from the entrance to the building and access track passing points that would be provided along this track, they will ensure that vehicles do not have to reverse significant lengths within the site, and also ensure that vehicles accessing and exiting the site are able to do so in a forward gear. It is also noted that the use on site is a private horticultural business and not open to the public.

Finally in terms of drainage, the front access is constructed in tarmac as gravel would be inappropriate adjacent to the busy Worksop Road. A soakaway and drainage channel are to be provided to the front preventing surface water flowing directly into the Worksop Road, and this would be subject to Condition. The applicant has also provided a percolation test to demonstrate the land can absorb the water flow. The widened access track within the site will be constructed in crushed rock/gravel, allowing water to drain through, preventing excessive water runoff.

#### General amenity issues

Policy CS27 'Community Health and Safety' states, in part, that: "Development will be supported which protects, promotes or contributes to securing a healthy and safe environment and minimise health inequalities.

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

Policy SP52 'Pollution Control' states that: "Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity. When determining planning applications, particular consideration will be given to:

- a. the detrimental impact on the amenity of the local area, including an assessment of the risks to public health.
- b. the presence of noise generating uses close to the site, and the potential noise likely to be generated by the proposed development. A Noise Assessment will be required to enable clear decision-making on any planning application.
- c. the impact on national air quality objectives and an assessment of the impacts on local air quality; including locally determined Air Quality Management Areas and meeting the aims and objectives of the Air Quality Action Plan.
- d. any adverse effects on the quantity, quality and ecology features of water bodies and groundwater resources.
- e. The impact of artificial lighting. Artificial lighting has the potential to cause unacceptable light pollution in the form of sky-glow, glare or intrusion onto other

property and land. Development proposals should ensure that adequate and reasonable controls to protect dwellings and other sensitive property, the rural night-sky, observatories, road-users, and designated sites for conservation of biodiversity or protected species are included within the proposals.”

Whatever the authorised uses of the land and buildings on site are, the site does not appear to have been used intensively, if at all, for many years. The current application relates to developments associated with the horticultural use of the site for the growing of plants/shrubs/trees, which itself is not development and does not require planning permission.

It is clear that the current use of the site is more intensive than what has preceded it and includes more vehicular movements and general activity on site, including planting and harvesting as well as trips from the site with plants etc to development sites where the plants are used in the landscaping requirements for those sites. This increased activity is associated with the widening of the access into the site, that is the subject of this current application, and it is considered reasonable and necessary to impose a condition restricting the movement of vehicles onto and off the site early in the morning and late in the evening, in the interests of the amenity of local residents. As such, conditions are recommended that would limit these movements to between 07:00 and 22:00 Monday to Sundays, with tighter restrictions for HGVs to between 08:00 and 20:00 Monday to Saturday and 09:00 and 18:00 Sundays.

In terms of lights on the building, a further condition is recommended that would require existing lighting to be angled and/or cowled, and prevent further lighting, and it is unlikely that the lights would be used before the first vehicles enter the site and after the last vehicles leave the site, which is controlled by way of the recommended condition referred to above.

Turning to the new access track, the applicant has agreed to amend the application so as to relocate the access track away from part of the eastern boundary in order to reduce the impact upon the neighbouring residents in Lindrick Dale. With this in mind the impact from the new access track is considered acceptable.

Turning to the borehole and associated structure, this is set well within the site and a relatively small structure. Any noise associated with the pump is minimal and as such the impact upon neighbouring residents is acceptable.

It is therefore considered that the proposed development complies with the provisions of Policies CS27 ‘Community Health and Safety’ and SP52 ‘Pollution Control’.

### Siting and Design

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. 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.

Policy SP55 'Design Principles' states development is required to be of high quality and incorporate inclusive design principles and positively contribute to the local character and distinctiveness of an area and the way it functions.

Firstly, in terms of the new borehole building and water tank these are fit for purpose industrial type structures. Such utilitarian structures are not unusual in a farm setting and appropriate for its intended use. The cabin type structure can also easily be removed from site should its use cease.

Turning to the access tracks within the site, these are laid out with crushed rock and are appropriate for a rural setting, where gravel access tracks are more common than tarmac. The crushed rock also ensures that the water can easily drain through the surface thereby minimising surface water drainage issues.

Finally with regard to the new access, this has been constructed in tarmac as loose gravel would not be appropriate close to the busy Worksop Road. The applicant has worked with the Council to improve the access setting adding some additional landscaping and painting the palisade fence green to improve its visual appearance within this sensitive Green Belt setting. The fence itself does not require planning permission and does not form part of this application.

It is therefore considered that the proposed structures and engineering operations are commensurate with the scale and nature of the applicant's agricultural operation in accordance with the provisions of Policies Policy CS28 'Sustainable Design' and SP55 'Design Principles' together with guidance contained within the NPPF.

### Landscape and trees

The site falls within the Anston Brook/ Sandbeck Green infrastructure Corridor.

Policy CS19 'Green Infrastructure', states in part that: "Proposals will be supported which make an overall contribution to the Green Infrastructure network based upon the principles set out below:

b) Avoiding damage to or loss of Green Infrastructure assets. Where loss is unavoidable and the benefits of the development outweigh the loss, appropriate mitigation and compensation measures, should be included as part of development proposals."

Additionally, Policy CS21 'Landscapes', states, in part, that: "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."

Policy SP32 'Green Infrastructure and Landscape' goes onto state in part that: "The Council will require proposals for all new development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets and networks including landscape, proportionate to the scale and impact of the development and to meeting needs of future occupants and users." Such an approach accords with relevant policies and guidance in the Core Strategy and the NPPF.



The scheme involves a number of new tracks and structures on the site. Whilst there will be an increase in the level of built development on site, this will be offset by an increase in vegetation on site through the growing of plants/trees on site. There will also be a variety of plants rather than the previous monoculture.

It is therefore considered that the proposal is acceptable in terms of its impact on landscaping and trees and in compliance with the relevant Local Plan Policies.

### Ecology and Biodiversity issues

Policy CS20 'Biodiversity and Geodiversity,' notes in part, 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."

Policy SP33 'Conserving and Enhancing the Natural Environment' states, in part, that: "Development should conserve and enhance existing and create new features of biodiversity and geodiversity value," and adds that: "Development will be expected to enhance biodiversity and geodiversity onsite with the aim of contributing to wider biodiversity and geodiversity delivery including, where appropriate, direct contribution to Ecological Networks, the Green Infrastructure network, Biodiversity Opportunity Areas, Nature Improvement Areas and Living Landscapes."

Policy SP35 'Protected and Priority Species' states that "Planning permission for development likely to have a direct or indirect adverse impact on the following will only be granted if they can demonstrate that there are no alternative sites with less or no harmful impacts that could be developed and that mitigation and / or compensation measures can be put in place that enable the status of the species to be conserved or enhanced:

- a. Protected species;
- b. Species of principal importance for the conservation of biodiversity;
- c. Species prioritised for action within the Rotherham Biodiversity Action Plan;
- d. Populations of species associated with statutorily protected sites. Measures to mitigate and, or compensate for, any impact must be agreed prior to development commencing and should be in place by the time development is brought into use".

The NPPF further advises in part of paragraph 170 that: "Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other things):

- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"

Objectors have raised concerns that no tree, ecology, or bat surveys have been carried out, and that light and noise generated at the site would have an Impact on wildlife. It should be noted that the existing agricultural building on site contains floodlighting, and the applicant has indicated that the lighting is only intended for early mornings and early evenings in the winter months when staff enter and exit the site and is not left on through the night.

The Council's Ecologist has indicated that they are happy with the proposal subject to no further on site lighting that could disturb bats in the night time hours and a condition is recommended in respect of proposed angling/cowling of the lights, and preventing provision of additional lighting, and it is unlikely that the lights would be used before the first vehicles enter the site and after the last vehicles leave the site, which is controlled by way of the separate recommended condition.

#### Other matters raised by objectors.

A neighbour at Rose Cottage has raised land ownership concerns, noting that the ownership of a strip of land on the A57 road frontage is unknown. This parcel of land includes land at the access to the application site, and is all within a separate deed parcel. The neighbour states that this land (other than that part that forms the access to the application site) has been within the fenced boundary of their property for more than 30 years, and that they are in the process of claiming this by way of adverse possession. This land does not, however, form any part of the current application site.

The applicant contends that all the land within the application site boundary is within their ownership and notes that the area of land at the access that falls within unknown ownership has been physically enclosed within the adjacent land that they do own. In addition, they note that this parcel of land was included within a conveyance in 1985 to F M Walker and Sons (Farmers) Limited, and it is assumed that the land should have been included within the wider Title, which they now own. The applicant has written to the Land Registry asking them to investigate this matter, though are still awaiting a response. Ultimately, land ownership matters are not a material planning consideration when determining the current application, and as noted above, the visibility splay required does not affect third party land as it is wholly within the adopted highway.

The neighbour also claims that a right of way they benefited from has been blocked up. It is not clear whether any right of access existed as there is no clear evidence on the ground, but the applicant has agreed to provide an access. Ultimately, this again is a civil matter between the parties and not a material planning consideration when determining the current application.

The neighbour has concerns over anti social behaviour from people parked at the entrance, in front of the gates that have been erected, would like bollards erecting to prevent this. Whilst the applicant has agreed to put bollards or bollards and a chain across the entrance, the Transportation Unit does not wish to see such provision as it would impact on a vehicle turning off the A57 into the access, which without the bollards and chain, they would have approximately 15m of space to be able to pull into, (should the gates to the site be closed). The Transportation Unit wouldn't wish to see anything that reduces this dimension, as this may prevent a large vehicle from being clear of the adjacent running lane. The applicant has indicated that it is their intention to get the CCTV working at the gate so that they can monitor the situation and get vehicle registration plates if necessary.

In terms of the borehole, the Environment Agency has confirmed that as the proposed usage is less than 20 cubic metres per day the applicant did not require a permit to drill the borehole and does not require an abstraction licence.

Objectors are concerned that the application is retrospective, and some of the development already been carried out, However, the application as submitted allows all the relevant material planning considerations to be considered.

The impact on Sheffield Aeroclub (at Netherthorpe airfield) has been raised, though the developments proposed would have no impact on flights taking place from that location, or any other flights.

An objector has stated that the development should be subject to an environmental impact assessment, though the proposed development does not trigger the requirement for such an assessment.

Finally, one objector considers Human Rights would be impacted on. Article 8 of the Human Rights Act states that individual have a right to a private and family life. The objector indicates that lighting on site which comes on at 6.15am interferes with their rights. In this respect, conditions are recommended requiring the lighting to be angled/cowled to minimise any impact, and limiting movements to and from the site which in turn would impact on when lights first come on in the morning (0700 hours at the earliest).

## **Conclusion**

The application relates to the widening of the existing access and access track, partial relocation of access track away from eastern boundary, formation of additional access tracks within the site, erection of building to house borehole equipment and erection of water tank. These developments are all considered to be acceptable on the basis of the principle, appearance, function and residential impacts. The proposed structures and engineering operations are not considered inappropriate development within the Green Belt as defined within the NPPF, and would not harm the openness and character of the Green Belt, nor the visual character of the area.

The developments allow for an intensification of the use of the site and, as such, conditions are recommended to minimise the impact on local residents.

As such the application is compliant with relevant local plan policies and guidance within the NPPF.

Whilst an element of commercial use does take place, it is not considered to be at a level that would result in a material change of use to a mixed use. This matter can be investigated further if evidence comes to light that a material change in use to a mixed use has taken place, and a further application requested to regularise matters, or enforcement action taken, as appropriate.

## **Conditions**

01

The permission hereby granted shall relate to the area shown outlined in red on the approved location plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans and submitted with the application. In this respect, the proposed realignment of the access

track within the site, away from the eastern boundary, shall be carried out within 6 months of the date of this decision.

Reason

To define the permission and for the avoidance of doubt.

02

The new access tracks and passing places shall be constructed in crushed rock in accordance with the approved plans.

Reason

To ensure that surface water can adequately be drained and in the interests of visual amenity.

03

Except in an emergency no vehicle shall enter the site outside the hours of 07:00 and 22:00 Monday to Sundays.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

04

Except in an emergency no vehicle of over 7.5 tonnes Maximum Authorised Mass (MAM) including heavy plant shall enter or exit the site outside the hours of 08:00 and 20:00 Monday to Saturday and 09:00 and 18:00 Sundays.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

05

Within 1 month of the date of this decision, details of the angling and/or cowling of all existing floodlighting on the building shall be submitted to the Local Planning Authority, and the subsequent approved details shall be implemented within 1 month of their approval. No additional lighting shall be installed on site without prior written approval of the Local Planning Authority.

Reason

In the interest of local amenity and ecology in accordance with Policy SP52 Control of Pollution and Policy SP35 'Protected and Priority Species'.

06

The site shall be used as a garden nursery and no members of the public shall visit the site.

Reason

In the interests of residential amenity in accordance with Policy SP52 Control of Pollution.

07

Within 1 month of the date of this decision, details of the drainage of the access at its junction with the public highway shall be submitted to the Local Planning Authority, and the subsequent approved details shall be implemented within 1 month of their approval.

**Reason**

To prevent the flow of excess water into the public highway in the interests of highway safety.

**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.