

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
1ST SEPTEMBER 2011**

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

RB2010/1357 Application to extend the time period for completion of the restoration of the site (Variation of Condition 1 imposed by RB2008/1918) which required completion by 31st December, 2010 to 31st December, 2013 at land at Orgreave Road and Highfield Lane, Orgreave for Harworth Estates	Page 8
RB2011/0743 Demolition of existing building and erection of 12 No. apartments at 39 Barleycroft Lane, Dinnington for Mr. G. Basford.	Page 31
RB2011/0756 Formation of practice facility with palladin perimeter fencing at Aston Hall Cricket Club, Green Lane, Aston for Aston Hall Cricket Club.	Page 41
RB2011/0801 Erection of solar farm at Brandon, Cumwell Lane, Hellaby for Mr. J. Fillingham.	Page 49
RB2011/0840 Proposed erection of 13 No. two storey houses at land off Wood Lane, Treeton for Jones Homes (Northern) Ltd.	Page 69
RB2011/1110 Continuation of use of hot food takeaway (Use Class A5) with variation to Condition 03 (opening hours) imposed by RB2010/1446 at 38 High Street, Swallownest for Mr. A. C. Zahidli.	Page 82

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
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The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

RB2010/1357

Application to extend the time period for completion of the restoration of the site (Variation of Condition 1 imposed by RB2008/1918 requiring completion by 31st December, 2010 to 31st December, 2013 at land at Orgreave Road and Highfield lane, Orgreave for Harworth Estates.

RECOMMENDATION: Grant Conditionally

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

Having regard to the Development Plan and all other relevant material considerations as set out below:

Development Plan:

RS

ENV4 'Minerals' indicates that plans, strategies, investment decisions and programmes should safeguard mineral deposits in the region, including aggregates, silica, coal, clay, brick earth, chalk and potash, from sterilisation by other types of development and provide for an adequate and steady supply of minerals.

YH9 'Green Belts' states that the Green Belts in North, South and West Yorkshire have a valuable role in supporting urban renaissance, transformation and concentration, as well as conserving countryside, and their general extent. It also states that they should not be changed.

Local Planning Policy

ENV1 'Green Belt' looks to protect the character and appearance of the Green Belt from inappropriate development.

ENV2 'Conserving the Environment' aims to ensure, amongst other things, that development does not harm the character and quality of the environment and that wildlife and historic interests are taken into account, and that any environmental losses are outweighed by other enhancements.

EC3.1 'Land Identified for Industrial and Business Uses' allows industrial and business development on land allocated for this purpose in the UDP subject to the impact on the character and appearance of the area, residential amenity and parking provision.

MIN6 'Methods and Control of Working' which requires an appropriate form of restoration for minerals sites to a suitable standard within an agreed timescale.

Other relevant material planning considerations:

PPG2 'Green Belts' aims to protect the character and appearance of the Green Belt and only allow development under limited criteria, which includes, amongst other things, outdoor sport and recreation.

PPG13 'Transport' aims to ensure that development and uses of land do not increase traffic congestion, do not affect highway safety and convenience and are accessible to public transport.

PPS 23: Planning and Pollution Control indicates that LPAs should consider the environmental benefits that the development might bring, such as the enhancement or creation of habitats and the remediation of past contamination.

For the following reasons:

Permission has previously been granted for the restoration of the site following open cast mining and the current application relates to an extension of time for completion of these restoration works which include landscaping, drainage works and the reinstatement of Highfield Lane.

The proposal is in accordance with the adopted Unitary Development Plan allocation, Industrial and Business Use for the north area, Unallocated for the central area and as Green Belt for the south area. Work at the Orgreave reclamation site is continuing and it is considered acceptable to further extend the time period for works to allow the completion of the development for a further period in order to ensure effective restoration of the site.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

Conditions & Reasons Imposed:

01

The development hereby permitted shall be completed by the 31st December, 2013.

To enable restoration of the site to a beneficial after use within a reasonable period, in accordance with Policy MIN6 of the adopted Unitary Development Plan.

02

No later than the end of the period referred to at condition 1 above, coaling and reclamation works shall have ceased and the site shall have been restored, treated and brought to a state suitable for built development (subject to an agreed settlement period), forestry and amenity open space purposes (including incidental water areas and wetlands) - in accordance with the conditions set out below, and as depicted on the restoration concept plan (drawing ref. 73/DO4A) dated 9th September 2003.

To ensure that the site is restored to a beneficial afteruse within a reasonable period, in accordance with Policy MIN6 of the adopted Unitary Development Plan.

03

A detailed restoration/landscaping/future management and maintenance scheme shall be submitted for the approval of the Local Planning Authority within the period referred to at Condition 1 above and thereafter implemented in accordance with the approved details.

To ensure that the site is restored to a beneficial afteruse within a reasonable period, in accordance with Policy MIN6 of the adopted Unitary Development Plan.

04

A copy of the approved schemes of working/restoration/aftercare and a copy of this planning permission shall be displayed at the site offices at all times for the reference of operators and contractors working on the site.

For the avoidance of doubt, and to give effect to the requirement of Policy MIN6 of the adopted Unitary Development Plan.

05

The development shall only take place in accordance with the submitted details as shown on the approved plans (drawing Nos. 73/DO1, 73/DO3A, 73/ 05/12920, 05/12921, 05/12922, 05/12923) and as described in the accompanying planning application and environmental statement and appendices submitted on 18th September 2003), and subject to the approval of matters of detail required to be submitted in accordance with the following conditions.

To limit the extent of the permission and ensure that the development is carried out in a reasonable manner in the interests of local amenity and the intended afteruse of the land in accordance with Policy MIN6 of the adopted Unitary Development Plan.

06

An engineer or similarly qualified person shall be responsible for investigating complaints regarding operations on site. A log of complaints shall be kept and made available to the Local Planning Authority on request.

In the interests of local amenity, and to give effect to Policy MIN 6 of the adopted Unitary Development Plan.

07

In the event of premature cessation of operations on the site for whatever reason then within nine months of such cessation a revised scheme of restoration and aftercare shall be submitted by the developer to the Local Planning Authority for approval. Restoration of the site shall thereafter proceed in accordance with the revised scheme as approved and shall be completed within two years from the date of approval of the revised scheme or such other period as may be agreed, in writing, by the Local Planning Authority.

To ensure that the site is restored to a beneficial afteruse within a reasonable period, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

08

The site shall be enclosed by a fence and gates to a specification first agreed with the Local Planning Authority. The fence shall be erected before the development hereby approved commences and shall be maintained in an effective condition throughout the duration of the development.

To prevent unauthorised access to the site in the interests of public safety, and to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

HIGHWAYS

09

Following coaling operations and restoration of the site in accordance with the development hereby approved Highfield Lane shall be reinstated to a specification and design which shall have received the prior written approval of the Local Planning Authority.

To ensure that the site is restored to a beneficial afteruse within a reasonable period, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

10

All access to and from the site for the purposes of the main operation hereby approved shall be solely via the main access point shown marked "Site Entrance" on the approved drawing (73/DO1).

To define the access arrangements and in the interests of general highway safety, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

11

Prior to the commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the highway and details of the measures to be employed to remove any such substance from the highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be used for the duration of the works.

Reason

In order to ensure the development does not give rise to problems of mud/material deposit on the adjoining public highway in the interests of road safety.

12

All vehicles entering the site importing waste materials or leaving the site with mineral materials shall be securely and effectively sheeted.

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

13

Heavy goods vehicles shall only enter or leave the site between the hours of 7.00 a.m. and 7.00 p.m. on weekdays and 7.00 a.m. and 1.00 p.m. Saturdays and no such movements shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

14

Nothing in the terms of this planning permission shall be construed as authorising the closure, stopping up, obstruction or other alteration, either in whole or in part of any public right of way that crosses or adjoins the application site.

For the avoidance of doubt, and to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

OPERATIONS

15

Notwithstanding the provisions of Parts 19 and 20 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 1995 no buildings or immobile plant shall be erected on the site as the development proceeds without the prior written permission of the Local Planning Authority.

To enable restoration of the site to a beneficial afteruse, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

16

Coal intended for sale or other disposal outside the site shall not be stocked on the site except as may be agreed by the Local Planning Authority in writing, neither shall coal be imported to the site for the purpose of blending.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

17

Any fuel and oil supply tanks shall be surrounded by bund walls of sufficient height, length and breadth so as to contain at least 110% of the storage capacity of the tanks and any associated pipework in the event of a spillage. The floor and walls of the bunded area so created shall be impervious to water and oil. Surface drainage from any vehicle standing areas, storage compounds, ancillary facilities and haul road areas shall be satisfactorily channelled through a suitably maintained silt and oil trap prior to discharge to any watercourse.

To ensure that the development does not give rise to problems of pollution to underground strata or adjoining watercourses, to give effect to the requirement of Policy MIN 6.1 of the adopted Unitary Development Plan.

18

A scheme for the provision of surface water drainage works of the restored areas, including discharges, shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

To ensure that the development does not give rise to drainage problems, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

19

The permission area including the area used for mineral extraction shall be kept free from standing water by pumping or other means and all waters from the site shall be discharged into the approved settlement pond(s) prior to discharge into any ditch, stream, watercourse or culvert. The settlement pond(s) shall be kept clear of mud and silt as may be necessary to keep them in good order and the discharge of waste, oil or other pollutants to any settlement pond, ditch, stream, watercourse or culvert shall not be permitted.

To ensure that the development does not give rise to drainage problems, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

20

Soil Treatment - All topsoil and subsoil shall be stripped from any part of the site before that part is excavated or is traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part) or is used for the stacking of subsoil or other overburden or as a vehicle standing area or for the construction of a road. If pockets of soil making material are found during the stripping or excavation operations, suitable quantities shall be recovered for use in the restoration of the final surface of the site. So far as is reasonable, no soil stripping shall be carried out when the ground is wet.

To ensure that all available soil resources on the site are efficiently stripped in a controlled manner, retained on site, and suitably stored free from risk of contamination, ready for use in subsequent restoration, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

21

All mounds shall be constructed with only a minimum amount of compaction to ensure stability and shall be constructed and removed in sequence to ensure screening from residential areas (reference British Coal Opencast Standard drawing 20). Stacks of topsoil, subsoil and soil making materials shall not be traversed by heavy vehicles or machinery except during stacking and re-spreading. All such mounds shall be graded and seeded with a suitable grass seed mixture and the resulting sward shall be managed throughout the period of storage.

To prevent damage to soil structures and subsequent reduction in the quality of site restoration, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

22

All topsoil, subsoil, soil making materials and overburden shall be stored separately in stacks free from the risk of mixing and contamination. Any overlap of soil types in a storage mound shall be kept to a minimum necessary for the effective formation of the mound. The interface(s) shall be suitably defined on site and on a plan to be supplied to the Local Planning Authority, which plan shall also indicate the separate recorded volumes of the various materials in the stacks.

In order to maximise the quality of restoration works carried out, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

23

The site and stacks of topsoil, subsoil and overburden shall at all times so far as is practicable be kept free of weeds and all necessary steps shall be taken to destroy weeds at early stages of growth.

In the interests of local amenity, and to maintain soil quality, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

STABILITY

24

Adequate precautions shall be taken to maintain the stability of land adjoining the opencast void and working shall take place in accordance with the Code of Practice on 'The Stability of Excavated Slopes at Opencast Coal Sites'.

In the interests of general site safety.

25

Appropriate steps shall be taken by the developer to treat any disused shaft, outlet heading or void of a mine identified by the site investigation or subsequently found in the course of the operations hereby permitted, with an efficient barrier or plug or other device so designed and constructed as to prevent hazard to person or animals, in accordance with a programme to be agreed by the Local Planning Authority.

In the interests of general site safety.

CONTROL OF NOISE

26

Except in the case of emergency and in locations described below, no operations shall take place on site other than between the hours of 0700 to 1900 Monday to Friday and between 0700 and 1300 hours on Saturdays. Soil stripping and the construction of the baffle/soil mounds adjacent to the Coalbrook Estate as shown on plan no. 051/13064; diversion of the River Rother; restoration of land to the east of the River Rother and the construction of the topsoil, subsoil mounds closest to the north east boundary towards the River Rother and Treeton shall be carried out only between the hours 0800 to 1800 Monday to Friday and 0800 to 1300 hours Saturday. There shall be no working on Sundays or public holidays. At all times when operations are not permitted, work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

27

All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities, shall be minimised in accordance with the guidance provided in British Standard 5228 (1984) Code of Practice; 'Noise Control on Construction and Open Sites', and Minerals Planning Guidance Note 11 (1993) 'The Control of Noise at Surface Mineral Workings'.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

28

The A weighted equivalent continuous free field noise level (LAeq) attributable to the operation measured at the nearest noise sensitive property boundaries shall not exceed:

(1) 65 dB LAeq in any one hour period during temporary operations such as soil stripping/replacement operations and/or the construction/removal of topsoil baffle mounds on the site,

(2) 70 dB LAeq in any one hour during the construction/removal of the top soil baffle mound located close to the Coalbrook Estate site boundary.

(3) 55 dB LAeq in any one hour period during all other site operations, except where written agreement by the Local Planning Authority is given in relation to a specific area or phase of the operation.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

29

The operator shall provide and install all necessary monitoring equipment to carry out periodic noise measurements, in accordance with arrangements and at location(s) submitted to and agreed with the Local Planning Authority. The Local Planning Authority shall have freedom of access to all noise records and results from the site on request. All results shall be interpreted and submitted to the Local Planning Authority no later than six weeks from the date of the monitoring.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

30

All vehicle reverse warning alarms shall be operated in accordance with a specification agreed in writing with the Local Planning Authority prior to the commencement of site operations. At all times the best practicable means shall be employed to prevent or counteract the effects on nearby residential areas of audible warning alarms. Steps shall be taken to ensure that so far as is practicable no audible alarm shall exceed the ambient noise level in the working location by more than 5 dBA.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

CONTROL OF BLASTING

31

Except in case of emergency, blasting operations shall be carried out only between the hours of 10.00 a.m. to 12 noon and 2.00 p.m. to 4.00 p.m. on Mondays to Fridays and between the hours of 10.00 a.m. and 12 noon on Saturdays. No blasting shall take place on Sundays and Public Holidays.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

32

The operator shall at all times employ the best practicable means in order to minimise noise, vibration and air over pressure caused by blasting. The operator shall provide and install all necessary monitoring equipment to carry out vibration and air over pressure monitoring at locations submitted to and agreed with the local planning authority. The Local Planning Authority shall have freedom of access to all blasting records and results from the site.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

33

Blasting charges shall be so regulated to ensure that during any period of 13 consecutive weeks as operations progress ground vibrations produced shall not exceed a peak particle velocity in any plane of 6mm/second at the 95% confidence limit, with no blast producing a peak particle velocity in any plane greater than 12mm/second measured at the ground surface adjacent to the nearest property to the blast. In devising and implementing a blasting programme for the site, the operator shall at all times employ the best practicable means in order to minimise noise, vibration and air over pressure caused by blasting.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

34

The operator shall give to the Local Planning Authority at least 7 days' notice in writing prior to the commencement of any programme of blasting at the site, and a durable notice board shall be displayed at the main site entrance giving the permitted hours of blasting. The notice board shall be retained and suitably maintained in a legible condition throughout the duration of the blasting programme/site working period.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

35

If the results of monitoring of any blasting operation on the site exceeds 3mms-1 ppv, the developer shall review the blasting specification and assess the reasons for the exceedance. The developer shall also consider whether the specification of the blast could have been reduced, having regard to the need to minimise disturbance off site. Where the developer considers that the blast could have been reduced this fact shall be taken into account when determining the next blast specification. The reasons for the exceedance and the result of the deliberations on the reduction of the specification shall be kept in a written log and made available to the Local Planning Authority.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

36

Should any blast on site exceed 3mms-1ppv the developer shall notify the Local Planning Authority.

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

CONTROL OF DUST

37

At all times during the carrying out of operations authorised or required under this permission, best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment, upward pointing exhausts on vehicles, landscaping bunds, wind fences, dampening down of stockpiles on the site, aerodynamic shaping of stockpiles to prevent dust lift off, regulating the speed of vehicles on the site and such other steps as are appropriate. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultation with the site operator to be impracticable, then movements of spoil, contaminated materials, coal and overburden shall be temporarily curtailed until such time as the site/weather conditions improve such as to permit a resumption.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

38

Prior to the commencement of works the operator shall provide, install and operate all necessary monitoring equipment to carry out dust measurements in accordance with arrangements and at location(s) approved by the Local Planning Authority and as set out in document ref: Org.011/Env/Mon. Compositional analysis of collected dusts shall be undertaken in line with a Local Planning Authority agreed sampling and analytical strategy. The Local Planning Authority shall have freedom of access to all dust monitoring records and results from the site on request. All results shall be interpreted and submitted to the Local Planning Authority no later than six weeks from the date of the dust sample analysis.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

39

The operator shall provide and operate all necessary monitoring equipment to carry out volatile organic compound monitoring in accordance with the scheme to be submitted to and approved by the Local Planning Authority and as set out in document ref: Org.011/Env/Mon. The Local Planning Authority shall have freedom of access to all monitoring records and results from the site on request. All results shall be interpreted and submitted to the Local Planning Authority no later than six weeks of the date of the dust sample analysis.

In the interests of local amenity, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

CONTAMINATION

40

The handling of ground and water contamination from the site shall only be carried out in accordance with the approved arrangements; these approved arrangements shall specifically include the means of sheeting of vehicles moving contaminated materials internally on the site.

In the interests of health and safety and of local amenity, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

RESTORATION

41

General - As the working of coal by opencast operations is completed in successive areas of the site as shown on phasing plans nos. 05/12920, 05/12921, 05/12922, 05/12923, overburden shall be progressively replaced, compacted where appropriate and graded so as to ensure so far as is reasonably practicable that the site will conform with the contours of the approved plan (73/DO3) or with such other contours which shall be submitted for the written approval of the Local Planning Authority during backfilling operations and the final restoration of the site.

To enable restoration of the site to a beneficial afteruse, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

42

On those areas of the site proposed for future built development uses, as shown on plan no. 73/DO4A, steps shall be taken to secure that the overburden backfilling of any extraction void which may directly affect that part of the site shall be compacted in layers such as to achieve at the final overburden compaction surface, a bearing capacity of not less than 107 kN/m².

To enable restoration of the site to a beneficial afteruse, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

43

Those parts of the site proposed to be restored for forestry and amenity open space use, together with any incidental landscaping areas shall, so far as is practicable, be progressively spread with a minimum thickness of 1000 mm of soil/soil making material as final backfilled overburden levels are achieved (including the use of limited topsoil and subsoil resources referred to at Condition 44 below). Where such a thickness is not practicable, the overburden shall be ripped to a depth to compensate for any deficiency. Such treatment shall ensure that within a depth of 1000 mm below final land surface, there is:-

- (i) no material injurious to plant life.
- (ii) no rock, stone, boulder or other material capable of preventing or impeding normal cultivation or land drainage operations, including mole ploughing or sub-soiling.
- (iii) no wire rope cable or other foreign objects.
- (iv) no excessively compacted zone.

Stones and any other deleterious material shall be removed from the site or buried on site at a depth in excess of 2 m below final land surface.

To ensure the satisfactory restoration of the site, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

44

Within the areas covered by condition 43 above:-

(i) All available subsoil shall be re-spread evenly over those areas agreed to receive such subsoil. The subsoil shall be treated so that it complies with the general requirement of condition 43 above. The subsoiling operation must penetrate at least 150 mm into the underlying layer in order to relieve the compaction at the interface. Subsoil, upon which other soils have been stored, shall be subsoiled (rooted) as above.

(ii) After satisfactory replacement and treatment of the subsoil, all available topsoil shall be re-spread evenly over those areas agreed to receive such topsoil. The topsoil shall be subsoiled (rooted), cultivated and so left as to comply with the requirement of condition 43 above. Topsoil, upon which other topsoil has been stored, shall be subsoiled (rooted) and cultivated as before.

To ensure the satisfactory restoration of the site, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

45

All operations involving soil replacement and cultivation treatments shall only be carried out when the full volume of soil involved is in a suitable dry soil moisture condition. The operator shall take all reasonable precautions to prevent the mixing of topsoil, subsoil, soil making material and overburden.

To prevent damage to soil structures and subsequent reduction in the quality of site restoration, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

46

Any area which has been excavated and which is affected by surface ponding (other than as may be delineated on approved plans as an intentional feature) or by local settlement caused by the authorised operations, shall be regraded to the approved levels as shall be agreed with the Local Planning Authority. All reasonable steps shall be taken to prevent the mingling of topsoil, subsoil and other overburden in the course of regrading.

To ensure that the development does not give rise to drainage problems, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

47

Trees (in woodlands and groupings), shrubs and hedgerows as appropriate shall be planted on the site in accordance with a detailed scheme to be approved by the Local Planning Authority in consultation with the Forestry Commission and which shall reflect the broad disposition of final surface treatments indicated on drawing no. 73/DO4A except as shall be otherwise agreed in writing by the Local Planning Authority. Such scheme shall provide for ground preparation and drainage, species, siting, planting distances, numbers phasing/programme of planting and measures to be employed to protect such planting to establishment. Any plants dying or destroyed within 5 years of planting shall be replaced as shall be agreed with the Local Planning Authority. The scheme shall be submitted within the period referred to in Condition 1 of this permission. (SEE ALSO AFTERCARE CONDITIONS BELOW).

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

48

Such areas treated in accordance with condition number 43 and which are not to be restored for woodland use shall be graded, drained and treated so as to be suitable for amenity open space/grassland purposes. Final surfaces shall be cultivated, fertilised and seeded with a suitable mixture(s) of grass seed appropriate to the intended afteruse and such as to establish a healthy green sward. Any water bodies to be established within the restored site as drainage/landscape features shall be engineered and constructed in accordance with details which shall have been approved in advance by the Local Planning Authority, in consultation with the Environment Agency as appropriate.

To ensure that the land is returned to a beneficial afteruse on completion of operations, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

49

Those parts of the site to be restored suitable for built development and not required immediately shall be treated as follows, except as shall be otherwise agreed in writing by the Local Planning Authority. Following final grading, such compacted areas shall be lightly scarified then seeded with an appropriate grass seed mixture as shall be agreed in advance with the Local Planning Authority. If on any other part of the site so treated, a satisfactory grass sward is not achieved as a result of initial seeding, such areas shall be lightly cultivated and re-seeded after correction of any nutrient deficiencies and/or toxicity, and during the next growing season. Such works shall be repeated until a green sward is established as shall be agreed with the Local Planning Authority. All such areas shall be free of large items of debris, rubble, metal or wire and treated as necessary to prevent infestation by weeds pending development of the land.

In order to ensure that the land is suitable for cultivation, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

50

No plant, machinery, perimeter fences, buildings, structures or erections, access roads, hardstanding areas, temporary culverts or other temporary works introduced in furtherance of the development hereby permitted, shall be left on the site after the completion of restoration, otherwise than with the agreement of the Local Planning Authority.

To ensure that the land is suitable for cultivation, to give effect to the requirement of Policy MIN 6 of the adopted Unitary Development Plan.

AFTERCARE

51

Woodland Area - Upon completion of restoration work on these parts of the site planted up for forestry/amenity woodland, the land shall be managed for a period of 5 full growing seasons in accordance with an aftercare scheme to be agreed with the Local Planning Authority in consultation with the Forestry Commission. The scheme shall specify maintenance treatment determined by annual inspection until establishment and shall include beating up, weeding, all protection, any remedial drainage requirements,

and the addition of fertilisers and nutrients to correct any deficiencies as appropriate. The submitted aftercare scheme shall specify in relation to each phase of the development, the steps to be taken and the periods during which they are to be taken. Subject to condition 52 below, aftercare of the site shall be carried out in accordance with the aftercare scheme as approved by the Local Planning Authority. The aftercare scheme shall be submitted for the approval of the Local Planning Authority within the period of twenty-four months from the date of this permission.

To enable the envisaged afteruses to become established, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

52

Where the Local Planning Authority, in consultation with the Forestry Commission, agrees in writing with the person or persons responsible for carrying out the aftercare works that a different arrangement or timing of steps is appropriate, the aftercare scheme shall be carried out in accordance with that agreement.

To enable the envisaged afteruses to become established, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

53

Upon completion of restoration work on those parts of the site proposed for amenity (open space) uses in accordance with condition 43 above - the land shall be managed for a period of 5 full growing seasons in accordance with an aftercare scheme to be agreed with the Local Planning Authority. The scheme shall allow for the land concerned to be cultivated, fertilised and otherwise treated such as to permit the establishment of a healthy green sward, consistent with the intended after-use, and shall specify the steps to be taken and the periods during which they are to be taken. Subject to condition 54 below, aftercare of the site shall be carried out in accordance with the approved aftercare scheme which shall be submitted for the approval of the Local Planning Authority within the period of twelve months of the date of this permission.

To enable the envisaged afteruses to become established, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

54

Where the Local Planning Authority agrees in writing with the person or persons responsible for undertaking the aftercare scheme that there shall be fewer steps or different timing between steps, the aftercare scheme shall be carried out in accordance with that agreement.

To enable the envisaged afteruses to become established, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

55

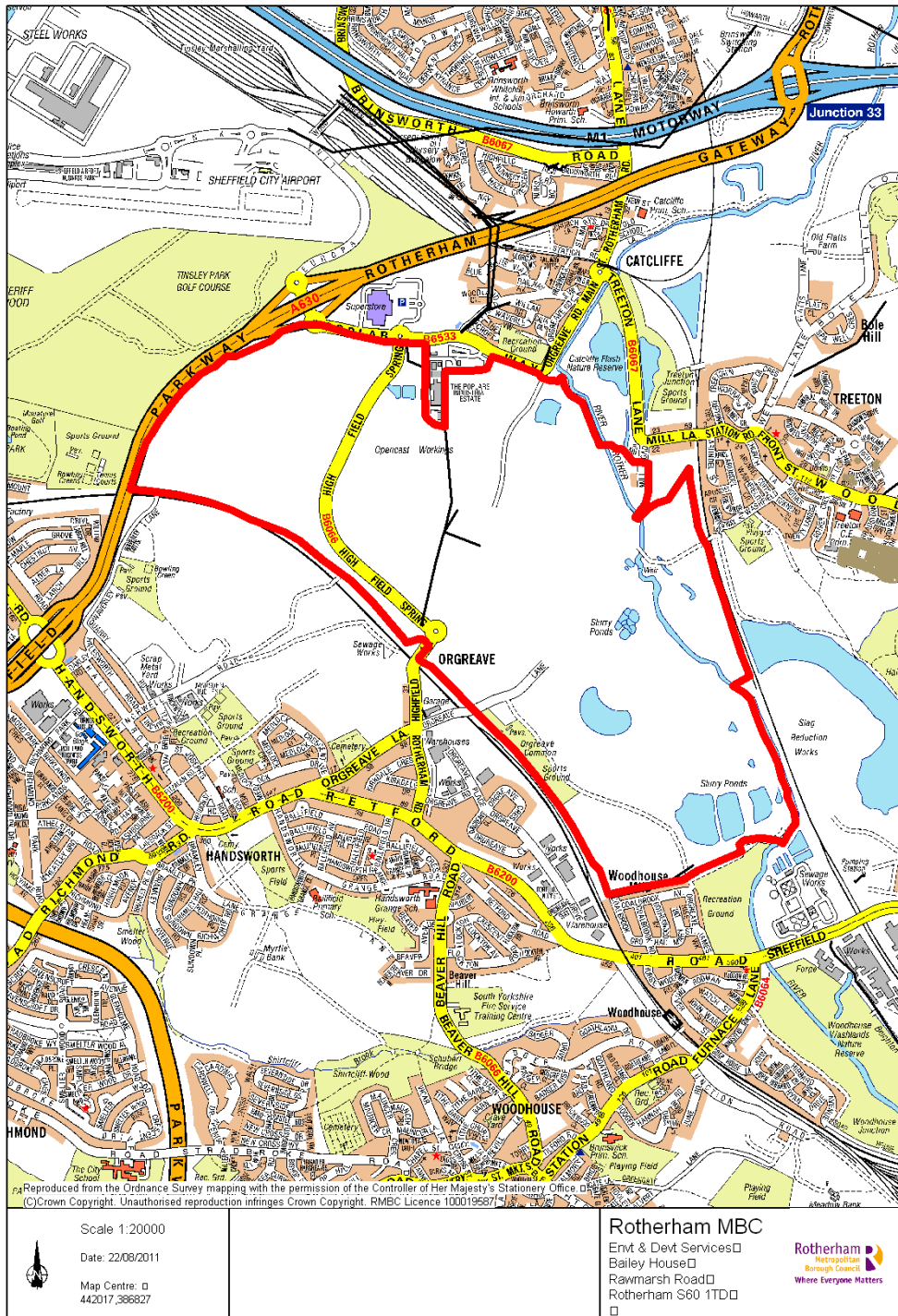
The details of the water body and impact of the site on the River Rother shall be submitted for the approval of the Local Planning Authority within the period referred to in Condition 1 of this planning permission.

To enable restoration of the site to a beneficial afteruse, in accordance with Policy MIN 6 of the adopted Unitary Development Plan.

Informatives

01

Erection of flow control structures or any culverting of a watercourse requires the prior written approval of the Environment Agency under s.23 of the Land Drainage Act 1991 or s.109 of the Water Resources Act 1991. The Environment Agency resists culverting on nature conservation and other grounds and consent for such works will not normally be granted except for access crossings.



Background

The planning history of the site relates to the following:

R93/1058P: Extraction of coal by opencast methods together with all ancillary operations (car park, plant yard, temporary offices, water treatment areas and sewage treatment facilities), the creation and use of waste disposal facility for dealing with contaminated and landfill waste from within proposed site, the construction of a new highway between B6066 Orgreave railway bridge and B6533 Homeworld roundabout, the carrying out of tip washing for coal recovery and the restoration of the area including the area known as Woodhouse Mill tip.

- GRANTED CONDITIONALLY on 21/12/94

RB2003/1640: Continuation of opencast coal and reclamation operations without compliance with condition 2 of planning permission R93/1058P dated 21/12/94, together with revisions to approved restoration contours.

- GRANTED CONDITIONALLY on 01/07/04

RB2005/1236: Application under section 73 for the continuation of opencast coal and reclamation operations, without compliance with condition No 3 (Restoration/landscaping/future management/aftercare, details to be submitted for approval) and No 47 (Details of trees, shrubs and hedgerows to be submitted) imposed by RB2003/1640 to allow details to be submitted before 1st July 2006.

- GRANTED CONDITIONALLY on 09/09/05

RB2006/2197: Application for variation to condition 2 (details of restoration/landscaping to be submitted within 12 months) & condition 3 (details of trees/shrubs/hedgerows to be submitted within 12 months) imposed by RB2005/1236 and variation to condition 55 (details of water buoy & impact on River Rother to be submitted within 24 months) imposed by RB2003/1640 to allow the details to be submitted by September 2007.

- GRANTED CONDITIONALLY on 13/09/05

RB2007/2205: Application to extend the time period for completion of the restoration of the site (non-compliance with condition 1 of RB2003/1640 which required completion by May 2008) to May 2009.

- GRANTED CONDITIONALLY on 07/02/08

RB2008/1372: Outline application and details of access for a new community comprising 3890 residential units, including 973 affordable units, two primary schools, offices/financial services (400 sq.m), food store (1500 sq.m), pubs, bars, restaurants & cafes, small shops, health centre, community centre, gym, sailing club, hotel, public open space and associated infrastructure including combined heat and power generation plant and construction of roads, cycleways, footpaths and bridleway.

- GRANTED CONDITIONALLY – April 2011

RB2008/1918: Application to extend the time period for completion of the restoration of the site (variation of condition 1 imposed by RB2007/2205 which required completion by 15 May 2009) to 31 December 2010.

- GRANTED CONDITIONALLY on 19/03/2009

Regional Strategy Update

As a result of the judgment in the Cala Homes (South) Ltd case Regional Strategies have been reinstated as part of the statutory 'development plan.' Decisions on planning applications therefore must be made in accordance with the 'development plan' unless material considerations indicate otherwise (S.38(6) of the Planning and Compulsory Purchase Act 2004). The Government's proposal to abolish Regional Strategies is capable, as a matter of law, of being a material consideration – the weight to be given to it is a matter for the decision maker.

Site Description & Location

The site comprises approximately 256ha of land formerly used for open-cast mining and other industries. It is bounded to the north by the developing industrial areas of the Advanced Manufacturing Park and Highfield Commercial, to the east by the River Rother, to the south the Coalbrook estate and to the west the Sheffield to Worksop railway line.

Proposal

Planning permission was granted in 1994 (ref R93/1058P) for open-cast mining on the site and the restoration of land after the completion of the mining works. Planning permission was granted in 2004 (ref RB2003/1640) to vary the time completion condition of the 1994 permission which required site restoration works to be completed by 15th May 2008.

Planning permission was subsequently granted on 7th February 2008 (RB2007/2205) to further extend this time limit to 15th May 2009. The time limit was extended to allow UK Coal to carry out additional soil strategy investigation works to be carried out during Winter 2007/08. The result of this additional work would mean the scheme of tree planting (and other planting) could not be fully completed until after the previous agreed deadline of 15th May 2008.

Following this extension of time a further application (ref RB2008/1918) was submitted and subsequently approved to extend this time limit to 31 December 2010. The reason for this further extension was due to the lack of material on site to complete the works and the ongoing design and engineering works associated with the diversion of Handsworth Beck.

With regard to this current application, Members will recall that the application was presented to Board in November 2010 and subsequently deferred pending the reconsideration of timescales relating to the implementation of the proposed drainage works adjacent to Poplar Way. Since this time Harworth Estates have been working closely with the Local Authority and the Environment Agency and have amended the timescales for implementation of the drainage works as set out below. Amendments

have also been made to the reinstatement of Highfield Lane which are explained in further detail in the proceeding paragraphs.

Harworth Estates state that the restoration works could not be completed by December 2010 and have submitted this current planning application to vary the condition to further extend the time limit to a backstop date of 31st December 2013, however, various works to the drainage and Highfield Lane will be completed as per the dates set out below.

With regard to Harworth Estate's justification for the extension of time to complete the above works, they state that it has not been possible for them to complete the restoration of the site by 31 December 2010 as required by Condition 1 of RB2008/1918, due to the delay in completing coal mining at the site which is still having an effect as well as the current economic climate.

A letter from BNP Paribas, agents for Harworth Estates, has been submitted with the planning application providing a revised timescale for completing the outstanding elements of the restoration scheme. This is detailed below:-

Drainage Works Completed

Since the application was last presented to Board in November 2010, Harworth Estates have liaised with the Local Authority and the Environment Agency and have agreed the design and subsequently installed drainage channel C2 which is designed to drain the 1.94 hectares of land on the restoration site between Channel C and the Poplar Way boundary. The forward discharge flows from Channel C2 into an existing attenuation lagoon and then discharges into an existing sewer via a metal pipe embedded in the lagoon wall. The sewer is located under Orgreave Road and connects to the River Rother. In a flood situation the outflow from C2 will be blocked by the closure of the flap valve at the river. In such instances the lagoon at the end of C2 will be emptied into Channel C by a small pump sufficient to clear the inflow.

Remaining Drainage Works

The outstanding consented drainage works including the reservoir structure, and open channel will be completed by mid 2012.

With regard to Upper Handsworth Beck, the applicant's state that these works do not form part of the restoration scheme and are therefore not subject to the time limit restriction. The details and the construction will therefore be dealt with as part of the Waverley New Community development.

Despite this and to provide the local authority with some comfort regarding the operation of the pumping method currently used, the applicant's have submitted an Emergency Action Plan which provides details of how water from the Beck will be diverted in the event the pumps fail. This action plan demonstrates that there will be no risk of flooding with the system operating as a siphon.

Reinstatement of Highfield Lane

The requirement under the restoration approval requires the reinstatement of Highfield Lane in some form. In this regard it is proposed to construct a Multi-User permissive

path along the practical route of the old Highfield Lane. The path will remain in place until such a time as a route for vehicular traffic movements is incorporated as the Waverley New Community development progresses. Work is currently underway and programmed for completion by autumn 2011. The vehicular route will be incorporated into the design of the appropriate phase of the new community development. The path will be constructed to a bridleway standard.

Woodland Planting

All of the remaining woodland planting was completed in February 2011 with the exception of the following areas:

- The slope by the Waverley Link Road route and to the south of the reservoir where re-grading of land is required – the planting at this part of the site will be complete by the end of 2013.
- Small area of land to the north of the reservoir following the completion off the major drainage features – this will be completed following the earthworks that will take place and planting will be completed by the end of 2013.
- Remaining planting at the Henman Hill area – the planting in this part of the site will take place once the restoration contours are complete and by the end of 2013.

Development Plan Allocation and Policy

Regional Strategy

ENV4 'Minerals' indicates that plans, strategies, investment decisions and programmes should safeguard mineral deposits in the region, including aggregates, silica, coal, clay, brick earth, chalk and potash, from sterilisation by other types of development and provide for an adequate and steady supply of minerals.

YH9 'Green Belts' states that the Green Belts in North, South and West Yorkshire have a valuable role in supporting urban renaissance, transformation and concentration, as well as conserving countryside, and their general extent. It also states that they should not be changed.

UDP Policies

The northern area of the site is allocated for Industrial and Business Use. The central part is 'white land' i.e. unallocated within the UDP and the southern area is within the Green Belt. The application therefore shall be assessed against the relevant UDP Policies which include the following:

ENV1 'Green Belt' looks to protect the character and appearance of the Green Belt from inappropriate development.

ENV2 'Conserving the Environment' aims to ensure, amongst other things, that development does not harm the character and quality of the environment and that wildlife and historic interests are taken into account, and that any environmental losses are outweighed by other enhancements.

EC3.1 'Land Identified for Industrial and Business Uses' allows industrial and business development on land allocated for this purpose in the UDP subject to the impact on the character and appearance of the area, residential amenity and parking provision.

MIN6 (Methods and Control of Working) which requires an appropriate form of restoration for minerals sites to a suitable standard within an agreed timescale.

Other Material Considerations

PPG2 'Green Belts' aims to protect the character and appearance of the Green Belt and only allow development under limited criteria, which includes, amongst other things, outdoor sport and recreation.

PPG13 'Transport' aims to ensure that development and uses of land do not increase traffic congestion, do not affect highway safety and convenience and are accessible to public transport.

PPS 23: Planning and Pollution Control indicates that LPAs should consider the environmental benefits that the development might bring, such as the enhancement or creation of habitats and the remediation of past contamination.

Publicity

The proposal was advertised in the press, on site and via letters to adjacent occupants when the application was originally submitted in October 2010. A letter from Orgreave Parish Council was received opposing the extension of the time limit for completion of works. It states:

"All Parish Councillors present strongly refute this extension request and believe that Harworth Estates have had sufficient time for restoration. We believe that the site should now be fully open for members of the public to enjoy. Also, we believe that residents within our parish have been patient for several years and subjecting them to another 3 years is unacceptable."

Three additional emails from Orgreave, Catcliffe and Treeton Parish Council's were received in June 2011 to object to a further request for Highfield Lane to remain closed as they consider that it goes against the original approval of planning permission.

Consultations

Transportation Unit raise no objections to the creation of the proposed bridleway through the site and the reinstatement of Highfield Lane as and when the new community development progresses.

Streetpride (Landscape): acknowledge that the revised phasing plan show the vast majority of planting was completed by February 2011, which is a marked improvement on the original plan, which showed them to be completed by 2012. This improvement to phasing compared with the initial submission is welcomed.

Streetpride (Drainage): raise no objections to the extension of time to complete the drainage works, however stress that the Emergency Action Plans should be in place to ensure flows are managed.

Public Rights of Way welcome this proposal. It is considered that opening up access from the Rotherham side of this development is a significant step forward which will be very welcomed by local people, and ensuring access is multi user is a very welcome step to providing access for all local people to this site.

Sheffield City Council: raise no objections to the proposals, subject to the timescales detailed by the Agent being embedded into any subsequent permission.

Environment Agency: raise no objections on flood risk grounds to the application. The details submitted for the C2 drainage channel are satisfactory. However, they stress that Upper Handsworth Beck should be completed as soon as practicably possible, to ensure that there is a sustainable permanent drainage system on the Waverley site to receive the permanently installed drainage from the AMP site and continue to pass forward the flow from the beck upstream of the railway line

Yorkshire Water: do not wish to make any comments on the proposal.

Forestry Commission: do not consider the proposals to be of any interest or to have any impact to any Ancient Native Woodland.

South Yorkshire Police Architectural Liaison Officer: no comments received.

Highways Agency: no objection

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

In this instance the main issue is whether the proposed delays allowing works beyond the current 31 December, 2010 time limit will significantly harm the surrounding environment or lead to further traffic and amenity issues.

There are no changes proposed to the scope of the proposed works, the only change being the extension of the timeframe for the completion of the restoration works from December 2010 to December 2013. The works outstanding include woodland planting, remaining drainage works and the reinstatement of Highfield Lane in some form.

The applicant's state that it has not been possible for them to complete these works by December 2010 due to the delay in the completion of the coal mining as a result of the impact of the recession on the market for minerals/materials for the construction industry.

The Council accepts that the full completion of the restoration scheme for the site, in accordance with the approved plans, was not achievable by 31st December 2010. This extension of time is required to assist the applicants to complete the outstanding drainage works, reinstate Highfield Lane as a bridleway and complete the woodland planting.

It is accepted that the planting areas would not be able to be fully provided without first completing the contours required as part of the drainage works. These contours were approved as part of a restoration package submitted in January 2008 in response to a number of conditions attached to permission RB2003/1640.

The drainage works still outstanding include the construction of Upper Handsworth Beck and formation of open channels directing surface water run off to the existing reservoirs. The Environment Agency have been consulted on the proposals and do not raise any objections to the extension in the time frame to implement these works. Previously, they recommended that drainage channel C2 (located along the north eastern area of the site) was considered a priority within the phasing, given that there is a potential risk that the existing drainage channel C could become blocked or capacity could be exceeded in an extreme rainfall event. Harworth Estates have now designed and installed this channel in consultation with the Environment Agency and the Local Planning Authority thereby reducing the potential risk of flooding in this immediate area.

As an interim measure, Harworth Estates have confirmed that temporary drainage systems have been put in place which include the following:

Upper Handsworth Beck – retention of existing culvert and pump. The pump is set in automatic mode and is remotely monitored from the control room. The existing culvert, shaft and pump will continue to be operated and maintained by UK Coal until replaced by another system.

Middle Handsworth Beck – At present the pump transfers Handsworth Beck via a six inch hose into a culverted section of the existing drainage channel D. This will be maintained and will continue until such time measures are put in place to ensure that the Beck will flow by gravity.

Reservoir Discharge – The reservoir engineer has issued an interim certificate allowing the reservoir to be filled up to a level of 28.5m and currently the water is maintained below this level in all of the lakes by pumping into the river. In the past, pumps were kept in situ, however, theft and vandalism rendered this impractical and pumps are now brought out only when required.

Notwithstanding the above, the Environment Agency and the Council have confirmed that all outstanding proposals within the development which affect the drainage systems must be agreed with the Environment Agency and the Council before works commence on site.

Harworth Estates will have in place Action Plans which will deal with all emergencies or incidents involving the drainage systems on site, both in and out of hours. The Action Plans will contain emergency contact details such that all incidents will be dealt with and resolved by Harworth Estates, within an agreed timescale.

In summary, the installation of drainage channel C2 has alleviated earlier concerns by the Environment Agency and protects Catcliffe from the potential for increased surface water run off in an extreme event. There are temporary systems in place to carry the Hansdworth Beck watercourse and all the water collected by surface channel D to the reservoir, and to maintain the water level in the reservoir below the maximum level permitted by the Reservoir Panel Engineer, who is an independent body.

Having had regard to the above and bearing in mind that the Council's Drainage Engineer and the Environment Agency do not raise any objections to the extension of time for completion of the outstanding works, it is not considered that the additional time scale for the implementation of the drainage works will have a detrimental impact on the site or surrounding area.

Turning to the creation of a bridleway from Poplar Way to Highfield Lane, it is proposed to construct it along the practical route of the old Highfield Lane. The path will remain in place until such time as a route for vehicular traffic movements are incorporated as the Waverley New Community development progresses. Work has started on the construction of the bridleway which is programmed for completion by autumn 2011. Both the Highways Agency and the Council's Transportation Unit have been consulted on the proposal and as there is an aspiration to assimilate Highfield Lane with the proposed link road, no objections are raised. Furthermore, it is considered that the delay in reinstating Highfield Lane as a highway will not have a detrimental impact on the volume of traffic on the surrounding local network. The Council's Public Rights of Way Officer also welcome the proposals for the bridleway as it will open up the site to pedestrians, horses and their riders and provide a direct route from Poplar Way to Highfield Lane. For these reasons, the creation of a bridleway along the route of the old Highfield Lane, until a route for vehicular traffic movements are incorporated in the New Community, is considered to be acceptable and will not have a detrimental impact on the volume of traffic on the surrounding local network.

The comments from Orgreave, Catcliffe and Treeton Parish Councils have been noted. Whilst it is appreciated that residents would have to endure ongoing works for a longer period and the site is still not fully open in terms of vehicular traffic, it is clear that the restoration works could not practically be completed by December 2010 and the extension of time will prevent any abortive works taking place, such as woodland planting when the drainage works have not been fully completed. On this basis this disadvantage is outweighed by the need to make changes to the restoration scheme to allow it to be eventually completed to an acceptable standard and this cannot be achieved without extending the current December 2010 time limit.

The extension of the time limit to enable the applicant to implement the drainage and planting works and also create a bridleway through the site is not considered to cause significant harm to the surrounding environment or lead to increased traffic problems and would therefore comply with the RS Green Belt policy YH9 and UDP policies ENV1, ENV2, EC3.1 and MIN6.

Conclusion

Permission has previously been granted for the restoration of the site following open cast mining and the current application relates to an extension of time for completion of these restoration works which include landscaping, drainage works and the reinstatement of Highfield Lane.

A variation of condition to allow an extended time limit for the restoration of the Waverley site is considered necessary to allow amendments to be approved and undertaken for the scheme to ensure it is satisfactorily completed. It is not considered that the ongoing works beyond the current time limit would cause additional harm to the surrounding environment, traffic levels or the general amenities of the area and therefore the application would comply with the RS and UDP policies outlined in the appraisal. Having regard to the above points, the proposed variation of the condition to extend the time limit for the restoration of the site until December 2013 is considered acceptable and is recommended for approval.

RB2011/0743

Demolition of existing building and erection of 12 No. apartments at 39 Barleycroft Lane, Dinnington for Mr. G. Basford.

RECOMMENDATION: REFUSE

REASON FOR REFUSAL

01

The Council consider that the proposed development by reason of its size, scale, form and detailed appearance is unsympathetic to the context of the site, is of a poor relationship with adjacent buildings, and its design fails to take the opportunities available for improving the character of the area. The proposal is therefore contrary to UDP Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' and national planning guidance in PPS1 'Delivering Sustainable Development'.

02

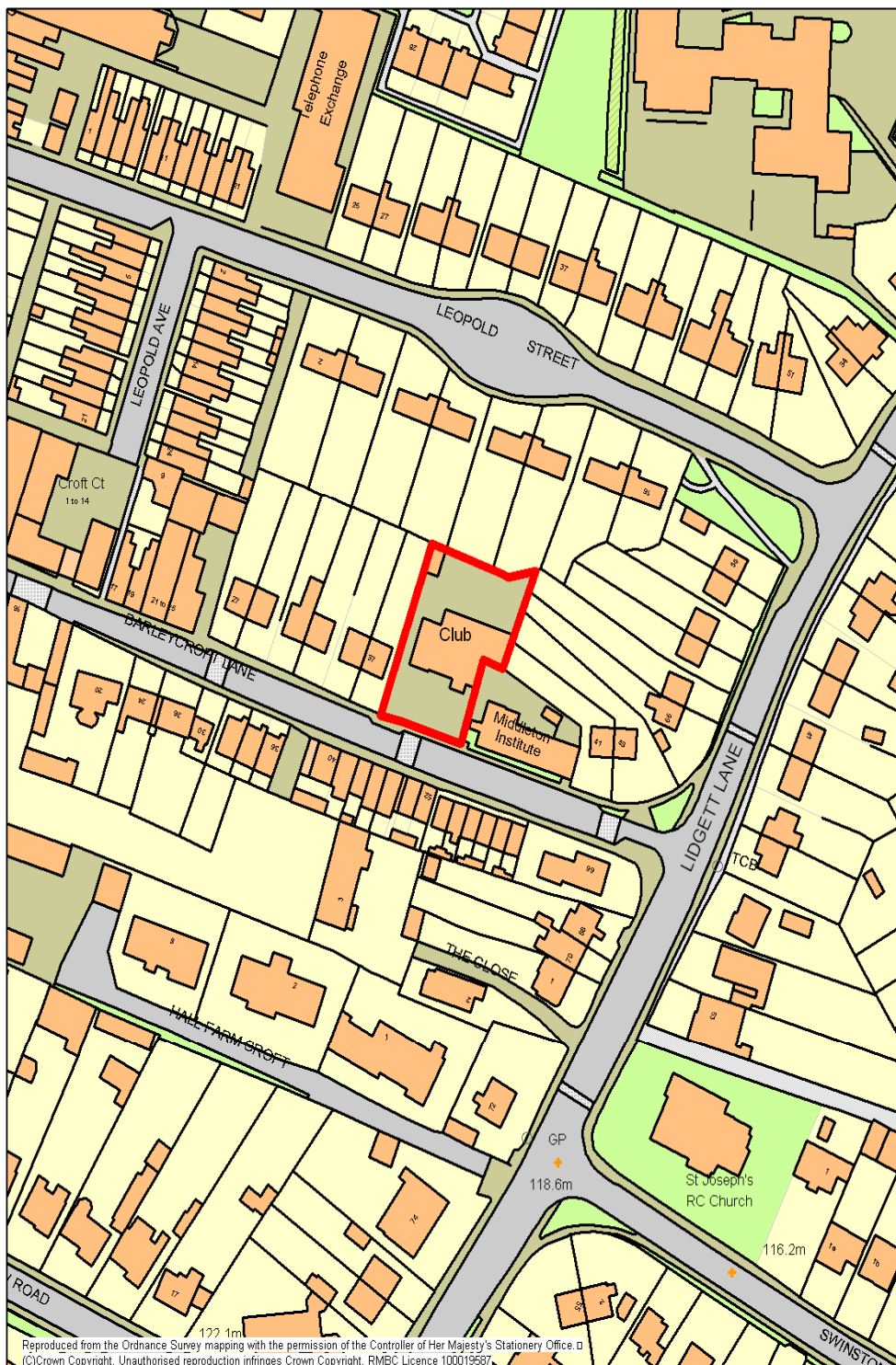
The proposed living accommodation size of units 4,8 &12 and the outlook of a number of the residential flats fail to provide an adequate standard of accommodation and as such are not in accordance with PPS3 'Housing' and The South Yorkshire Residential Design Guide.

03

The proposed residential flats lack adequate shared amenity space and an acceptable standard of landscaping to soften the impact of the proposed development. As such the proposal is not in accordance with UDP Policy ENV3.1 'Development and the Environment' and HG5 'The Residential Environment', and to guidance in PPS3 'Housing' and The South Yorkshire Residential Design Guide.

04

The Council further consider that the proposed development will have a detrimental effect on the amenities of the occupiers of No.37 by virtue of being an overbearing and dominating building form adjacent to their rear private amenity space. The proposal is therefore contrary to UDP Policies ENV3.1 'Development and the Environment'.



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Rotherham
 Metropolitan
 Borough Council
 Where Everyone Matters

Background

KP1963/1593 - Change of use school to saturday school social club house & car park - GRANTED CONDITIONALLY

KP1964/1593A - Conversion of school room to social club & extns & improvements to dwelling - GRANTED

Site Description & Location

The site of application is the Ukraine Club on Barleycroft, Dinnington. Barleycroft is positioned outside Dinnington Town Centre and contains a mixed variety of buildings dating from the Victorian period to modern day, with flats, terrace properties and suburban housing.

The Ukraine Club itself is a Victorian building rendered and painted white, with a pitched slate roof and parking to the front and rear. To the east of the Club is the Middleton Institute and to the west a semi detached red brick building. To the north are a number of bungalows, whilst to the south are a number of terrace properties with rooms within the roofspace and front dormer windows.

Proposal

The applicant seeks permission to demolish the existing property and erect a new three storey building with dormers to the front. 5 of the flats will be one bedroom flats, with the remaining 7 flats to be two bedroom flats. 12 parking spaces will be provided to the rear of the site, with 2 further guest parking spaces to the front. The overall density of the development equates to approximately 123 dwelling per hectare.

The applicant has submitted a Design and Access statement indicating that the existing club is no longer financially viable and that 7 similar community facilities are available in the locality. In addition a Building for Life assessment has been completed by the applicant giving the scheme a score of 17.5 out of 20.

Development Plan Allocation and Policy

The site is allocated as residential on the adopted Unitary Development Plan, and comprises approximately 0.1 hectares of land. The following Policies are considered to be relevant:

ENV 3.1 Development and the Environment, states that development should make a positive contribution to the environment by achieving an appropriate standard of design.

Policy T6.1 Car Parking Standards states that provision should be made in new developments for appropriate levels of car parking off highway.

Policy HG5 The Residential Environment states:

“The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone.”

Policy CR1.5 'Community Facilities' states:

"Those areas allocated on the Proposals Map for Community Facilities will, wherever possible, be retained or developed for such purposes during the Plan Period. In addition, land or buildings currently used or last used for community purposes, but not identified as such on the Proposals Map will be similarly safeguarded wherever possible.

Development proposals which involve the loss of key community facilities shall only be permitted where the local planning authority is satisfied that the retention of the land or building in community use is no longer viable, or where adequate alternative provision has been made or where some other overriding public benefit will result from the loss of the facility."

Other Material Considerations

National Guidance:

PPS1 Delivering Sustainable Development strongly advocates sustainable development, re-use of land, urban regeneration, access to a variety of transport modes and well designed buildings in town centres, which respect their surroundings. It also states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area should not be accepted.

PPS3 Housing reinforces the message from PPS 1. It advocates the efficient use of land to provide high quality housing with a variety of house types in sustainable locations with access to a variety of modes of transport. It also states that development should be well integrated with and complement neighbouring buildings and the local area in terms of scale, density, layout and access.

PPS4 Planning for Sustainable Economic Development is relevant and Policy EC13 states:

Determining planning applications affecting shops and services in local centres and villages:

EC13.1 When assessing planning applications affecting shops, leisure uses including public houses or services in local centres and villages, local planning authorities should (amongst other things):

- (a) take into account the importance of the shop, leisure facility or service to the a. local community or the economic base of the area if the proposal would result in its loss or change of use;
- (b) refuse planning applications which fail to protect existing facilities which provide for people's day-to-day needs

PPG13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes, and a reduction in the need to travel and the length and frequency of car journey.

Supplementary Planning Guidance:

The Council's parking standards (approved in June 2011) note that for flats a minimum of 1 parking space per flat plus 50% allocated for visitors.

South Yorkshire Residential Design Guide (SYRDG):

The SYRDG was adopted by the Council as best practice following public consultation in May 2011 pending consideration of its adoption (all or in part) as a Supplementary Planning Document following adoption of the LDF Core Strategy. It notes:

N2.1 Character areas:

The character appraisal should identify the wider landscape character area and settlement type in which the site is located. The result should then be the identification of distinct local sub-area that forms the immediate context of the site. The primary design source for maintaining character should be the character area in which the site is located.

If the area is not deemed a positive source, a new and distinctive character should be established, but with clear reference to other local areas to help maintain the character of the wider area.

N4 Green infrastructure, vegetation and habitat:

The design of all new development must be based on an appraisal that identifies existing vegetation and habitat on the site and its surroundings and assesses the advantages and disadvantages of retention (see A3.4). New development should establish and be built around a landscape framework that consolidates and integrates existing and proposed green features to complement or extend the wider green infrastructure.

B1.5 Density:

Within the range set by policy, the density of proposed development should be an appropriate response to the character of the area, the location of the site within the settlement, the proximity and accessibility of facilities and services, acceptable levels of parking. Applicants must demonstrate that all these factors have been taken into account to justify the proposed density. Density as expressed in the application material must be stated in dwellings per hectare (net dwelling density as defined in PPS3) and, for full and reserved matters applications, in floor area (square metres) per hectare.

B2.4 Relationship of the building to the public realm:

The frontage of buildings in all new development must fulfil its role as the public front, appropriate to its location within the neighbourhood, street hierarchy and individual street.

B2.5 Private and shared private outdoor space:

Private and shared private outdoor amenity space for active use must be secure and endeavour to have sufficient sunlight. Shared private space should be located where it is well overlooked both by people moving through or past the space and from windows. Undefined or unenclosed space around the outside of multiple occupancy buildings is not acceptable as shared outdoor space for

active use. Consider inclusion of space for the cultivation of vegetables and fruit. All buildings should include level thresholds to gardens that can be used by all.

All shared amenity and play space must have an identified body to manage and maintain the space in accordance with an agreed management plan.

B3.1 Overall building form:

The overall form and detailed design of buildings should be appropriate to their location within their neighbourhood and character area as well as within the street and block or plot series. The design of buildings should enhance the character of the surrounding area.

TECHNICAL REQUIREMENTS

4A Amenity and internal space standards, safety and security

A.1 Amenity space

Shared private space

A.1.2 Shared private space for flats must be a minimum of 50 square metres plus an additional 10 square metres per unit either as balcony space or added to shared private space.

A.1.3 Where shared private space cannot be provided balconies must be provided.

A.1.4 Balconies must be a minimum of 3 square metres and provide usable space clear of door swings to count toward the minimum requirements.

A.1.5 The amount of shared private space to be provided will also depend on the quality, quantity and accessibility of local public open space.

A.1.6 External space should be designed as an integral part of the development, with priority given to private rather than communal space.

A.1.7 Shared private space must be located where it is:

- accessible to disabled people
- well overlooked and near active lines of movement
- takes advantage where possible of long distance views and mature planting
- receives sunshine over at least half the area on 21 March/September.

B3.2 Internal space standards:

All new dwellings should be fit for purpose in terms of internal layout, dimensions and space standards, as set out below:

Dwelling Size	Studio 1 Person	1 Bed 1 Person	1 Bed 2 Person	2 Bed 3 Person	3 Bed 4 Person	4 Bed 5 Person or more
Double Bedroom		12	12	12	12	12
Single Bedroom			7	7	7	7
Living Room (L)		13	13	13	15	15
Living/ Dining (DL)		16	16	17	18	19
Dining room (D)						
Kitchen (K)		13	9	11	13	13
Kitchen/ Dining (KD)		9	13	13	11	12
Open Plan/ combined (KDL)		24	24	27	30	
Bathroom/ WC combined	3.5	3.5	3.5	3.5	3.5	3.5
Storage	1.5	2.5	3.5	3.75	4.5	5.5
Overall floor area	33	46	47	62	77	93

K=cooking, D=eating, L=living

Table 4A.1 Space Standards

Publicity

The application was advertised on site and by way of neighbour notification and 43 letters of objection have been received, 42 of which consist of a round robin letter from the Dinnington Area Regeneration Trust that has been signed by separate individuals.

The single neighbouring objection letter from the occupier of 41 Barleycroft Lane states that:

- The new development will significantly reduce sunlight to the rear of my garden.
- The new flats will reduce the privacy of my garden.
- The development does not contain adequate parking for guests and residents.

The round robin letter from the Dinnington Area Regeneration Trust states that the Middleton Hall situated next to the Ukraine Club has a right of access over the land, which is also used as a fire escape route. They consider that the new building will block this fire access.

Consultations

Transportation Unit: No objections subject to recommended conditions.

Urban Design Officer: "I believe the informal Building for Life score of 17.5 submitted by the developer to be highly inaccurate, realistically the score would come just under 10/20, which highlights a scheme that falls short of the overall design quality we expect at Rotherham."

Landscape Unit: The submission lacks important detail regarding any existing and proposed landscape features, the Design & Access Statement provides no information regarding landscape and does not appear to have been prepared in accordance with CABE guidance.

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

In this instance the main issues for consideration are:

- (i) The principle of the loss of a community facility and residential development.
- (ii) The scale, layout and appearance of the proposed block of flats.
- (iii) Impact upon neighbouring amenity.
- (iv) Highway Issues.
- (v) Other matters raised by objectors.

(i) The principle of the loss of a community facility and residential development:

The proposal will result in the loss of a community Club facility in the area that has been present for over 50 years. The Ukraine Club was originally set up by Ukrainian Miners working locally and has been a local feature for many years. The applicant has indicated that the club is becoming less commercially viable and that 7 similar community facilities are available in the locality.

The Council has received no objections to the loss of the club use and other pubs/clubs are available to local people in Dinnington. The local Parish Council has also not commented on the proposal or the loss of the Club. It is clear from this information that the club is of limited public interest and does not provide an important social centre or

economic base. As such the proposal is considered to be acceptable in terms of Policy CR1.5 'Community Facilities' and complies with the guidance laid out in PPS4.

In terms of the residential use the site is allocated residential in the Unitary Development Plan, close to local facilities and good public transport links. As such, and considering the loss of the Ukraine Club has been justified, the principle of residential development is acceptable.

(ii) The scale, layout and appearance of the proposed block of flats:

The applicant has submitted a Building for Life Assessment which rates the overall design of the scheme at 17.5 out of 20. The Council's Urban Designer has assessed their submission and considers the score to be highly inaccurate. The proposal is essentially an overdevelopment of this small site and contains a number of important design failings, which include:

- The overall scale and massing of the building is excessive and would appear out of keeping in the streetscene.
- The architectural appearance of the property is unacceptable and there are an excessive number of dormer windows to the front roofslope.
- The site lacks amenity space for residents by way of a garden area or balconies.
- The proposed landscaping plan is not detailed enough and the overall level and provision is inadequate. The access to the rear of the site is car dominated and the rear courtyard lacks soft landscaping to add relief to the mass of car parking.
- Units 4,8 &12 fail to meet the minimum internal room spaces outlined within the South Yorkshire Residential Design Guide.
- The outlook of a number of habitable rooms is poor and would not provide acceptable living accommodation.
- No details of any renewable technology or green features have been submitted to justify a high Building for Life score.
- The development at the equivalent of approximately 123 dwellings per hectare is overdevelopment and as a result a number of units rely upon views over the Middleton Institute. Such a borrowed view could restrict any future redevelopment of the Middleton Institute. Moreover the three storey building will tower above the modest Middleton Institute and appear out of character in the streetscene.

With these failings in mind the scheme would receive a Building for Life score of no more than 10 out of 20, below the standard new development should achieve.

In view of the above, it is considered that the proposed development by reason of its size, scale, form and detailed appearance is unsympathetic to the context of the site, is of a poor relationship with adjacent buildings, and its design fails to take the opportunities available for improving the character of the area. A smaller scheme with a reduced number of units would be more sympathetic to this location.

Furthermore the proposed living accommodation size of units 4,8 &12 and the outlook of a number of the residential flats fail to provide an adequate standard of accommodation and as such are not in accordance with PPS3 'Housing' and The South Yorkshire Residential Design Guide.

Finally the lack of private amenity space to the flats is not in accordance with UDP Policy ENV3.1 'Development and the Environment' and HG5 'The Residential Environment', and to guidance in PPS3 'Housing' and The South Yorkshire Residential Design Guide.

(iii) Impact upon neighbouring amenity:

In terms of the impact upon neighbouring amenity the main impact will be upon No.37, an adjoining two storey semi detached property. The new building will extend some 3.8m to the rear of No.37 and be set some 3m off their boundary. Whilst the building will be set back somewhat, at a full three storeys in height it is considered that the overall bulk and massing will be excessive and detrimental to the amenity of the neighbouring occupiers. Such an outlook to the neighbouring property No.37 is excessive and warrants refusal in its own right. As such the proposal would be contrary to UDP Policies ENV3.1 'Development and the Environment'.

Turning to the objector at No.41, the bottom of their rear garden will be overshadowed somewhat by the new development although no overlooking will occur. However the building will be set some 28m from the rear elevation of No.41 and as such is not considered that the impact would be so severe to warrant refusal.

(iv) Highway Issues

In terms parking the proposed development will have 12 parking spaces one for each unit and two guest parking spaces to the front. Such a parking provision is considered adequate, especially considering the developments sustainable location close to good public transport and the amenities of Dinnington Town Centre.

(v) Other matters raised by objectors:

In terms of the 42 objections relating to the impact upon the access to the Middleton Institute, the plans indicate that the access will be maintained and moreover this is primarily a civil issue.

Conclusion

With the above circumstances in mind it is recommended that the application be refused planning permission due to its poor overall design, lack of amenity space, landscaping, relationship in the streetscene, harm to neighbouring amenity and inadequate internal size of a number of units. As such the proposal does not meet the relevant Policies and guidance referred to above and it is recommended that planning permission be refused.

RB2011/0756

Formation of practice facility with palladin perimeter fencing at Aston Hall Cricket Club, Green Lane, Aston for Aston Hall Cricket Club.

RECOMMENDATION: Grant Conditionally

STATEMENT OF REASONS FOR DECISION TO *GRANT PLANNING PERMISSION*

Having regard to the Development Plan and all other relevant material considerations as set out below:

Development Plan:

Policy ENV1 'Green Belt' states: "In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes (amongst other things):

- (i) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it."

Policy CR2.5 'Proposals for New Outdoor Sport and Recreation in the Countryside' states: "Proposals for sporting and recreational activities in the countryside will be acceptable providing that:

- (i) they would not detract from the open character of the Green Belt in any location which is particularly vulnerable because of its prominence or narrowness,
- (ii) they would not materially detract from the surrounding landscape character,
- (iii) they would not give rise to undue disturbance caused by excessive noise or the attraction of large numbers of people or excessive traffic,
- (iv) they are sited and designed so as to avoid any adverse impact on identified heritage interest or agricultural interests, and
- (v) they can satisfy other relevant policies of the Plan."

Other relevant material planning considerations:

Planning Policy Guidance Note 2: 'Green Belts' (PPG2) is relevant to this proposal. It states that:

The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes (amongst other things):

- essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it.

For the following reasons:

The proposed cricket practice nets are considered to represent essential facilities for outdoor sport and outdoor recreation, which preserve the openness of the Green Belt. The netting and green palladin fencing will have light appearance blending into the general green landscape character of the area and subject to an appropriate landscaping scheme will not be detrimental to the openness and character of the Green Belt.

In terms of highway access the proposed Cricket nets are not considered to generate a significant increase in traffic movement along Green Lane and will not be detrimental to the free and safe movement of traffic.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

Conditions & Reasons Imposed:

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

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

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

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

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape',

ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

03

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

Reason

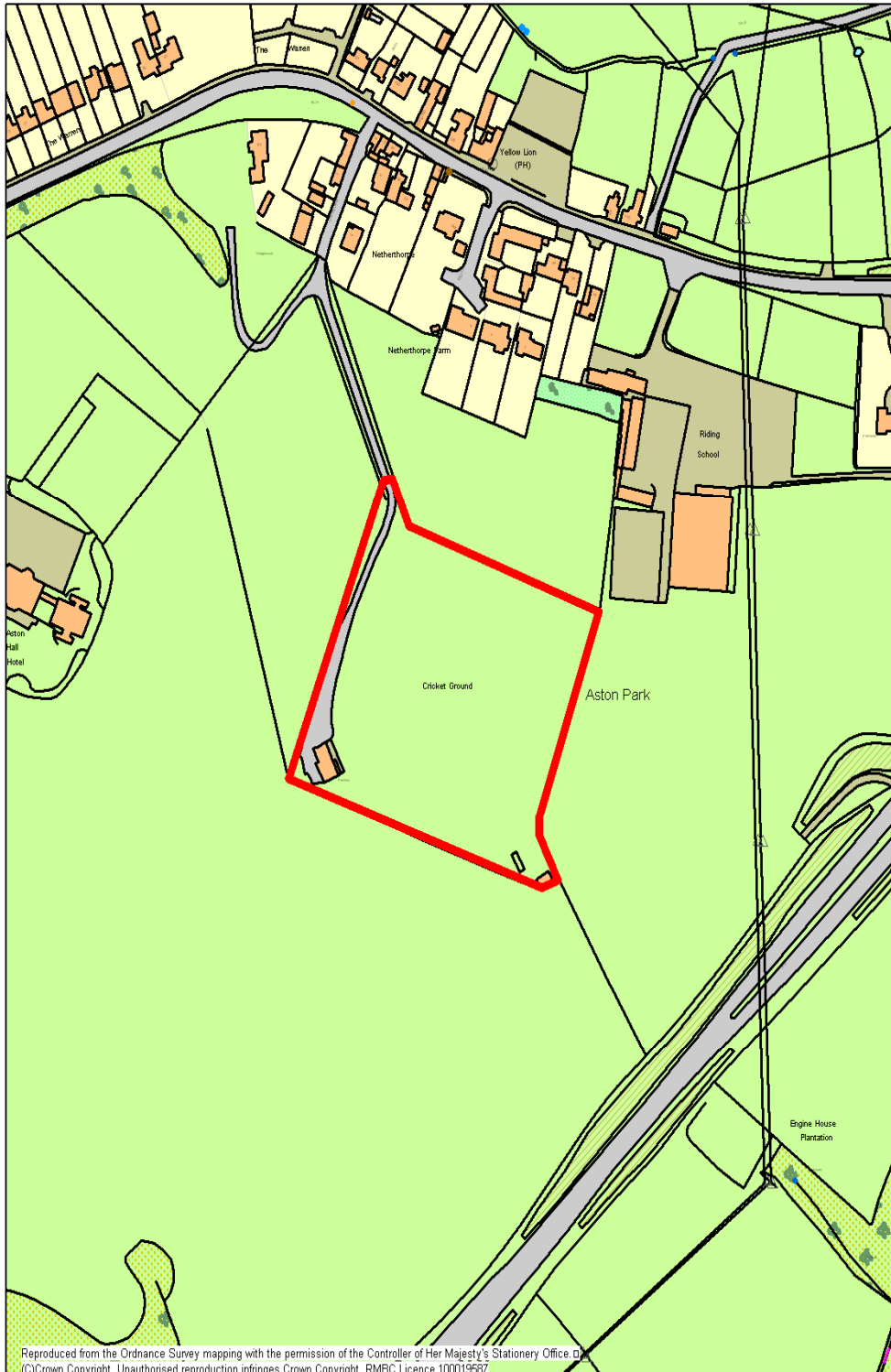
To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

04


No floodlighting shall be erected at the nets.

Reason

Such floodlighting could lead to an intensification in the use of the nets, and an associated increase in the use of Green Lane, and in the interests of visual amenity in this Green Belt location.



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Background

RB1997/0788 - Erection of new sight screen - GRANTED CONDITIONALLY

RB2003/0933 -Erection of changing rooms - GRANTED CONDITIONALLY

RB2008/0090 - Extensions to clubhouse to form improved changing facilities, conservatory & refreshments area and new access ramps - GRANTED CONDITIONALLY

Site Description & Location

The site of application is Aston Hall Cricket Club, located on the edge of Aston Village between Aston Hall Hotel and the A57. The club is set within the open Green Belt and accessed via a narrow single lane track (Green Lane) which links onto Worksop Road. The Club dates from over 100 years ago.

Proposal

The application is to erect 3 practice cricket nets surfaced with all weather Astro turf. The nets themselves will be 3.66m in height with a surrounding green palladin 2.4m high fence. The Astro turf hardstanding will measure 14.58m by 33.20m in total.

The nets will be located in the south east corner of the site approximately 100m from the A57. They would be located close to boundary trees and bushes and would require the removal of an existing storage building in this location.

Supporting information submitted with the applications states: "Aston Hall Cricket Club is seeking planning permission to provide 3 bay off field practice nets to further develop cricket in Aston and provide high quality cricket practice facilities for 8 junior teams and 3 senior sides. In addition, this year we have introduced 2 girls teams, which has significantly increased the demand for cricket coaching sessions. Without this equipment we will not be able to offer sports training to all children as we only have 1 mobile practice net. The enhanced training facilities that the nets will provide will attract more people from our local community to the club, particularly children."

Development Plan Allocation and Policy

Development Plan:

The site is allocated Green Belt in the adopted Unitary Development Plan, and the following Policies are considered to be relevant in this instance.

Policy ENV1 'Green Belt' states: "In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes (amongst other things):

- (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it."

Policy CR2.5 'Proposals for New Outdoor Sport and Recreation in the Countryside states: "Proposals for sporting and recreational activities in the countryside will be acceptable providing that:-

- (i) they would not detract from the open character of the Green Belt in any location which is particularly vulnerable because of its prominence or narrowness,
- (ii) they would not materially detract from the surrounding landscape character,
- (iii) they would not give rise to undue disturbance caused by excessive noise or the attraction of large numbers of people or excessive traffic,
- (iv) they are sited and designed so as to avoid any adverse impact on identified heritage interest or agricultural interests, and
- (v) they can satisfy other relevant policies of the Plan."

Other Material Considerations

Planning Policy Guidance Note 2: 'Green Belts' (PPG2) is relevant to this proposal. It states that: "The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes (amongst other things):

- essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it."

Publicity

The application was advertised by way of neighbour notification and a site notice. The following representations have been received, 6 letters of objection, 3 letters of support and petition in favour of the Cricket Nets signed by 40 people.

The 6 letters of objection state that:-

- The lane is currently heavily congested with people attending matches and functions at the club.
- Drivers are damaging properties along Green Lane.
- The application would lead to a significant increase in traffic along Green Lane.
- Construction lorries are not suitable along Green Lane.
- Lack of consultation from the club.
- No details of proposed waste collection.
- The nets could be used all year round by a larger range of people.
- The increased traffic will delay emergency services operating in the area.
- A blind resident has difficulty with the increased traffic in the locality.
- There will be a serious intensification of use on site.
- The development will lead to an increase in noise and general disturbance as the development would lead to an increased demand for more functions and demands on the use of Green Lane.

The 3 letters in support state that:-

- The new nets are needed to help the club grow and to train young players.
- The Cricket Club forms an important part of the community and the facilities will help to encourage young people to exercise and become involved in sport.

- The existing mobile cricket net is poor and not adequate for the clubs requirements.
- The nets will provide facilities for disabled and female cricketers.

Consultations

Transportation Unit: Has inspected the site and notes that there is a speed hump in Green Lane and does not consider that any access improvements are possible without using third party land. Notes that Green Lane is too narrow in part to allow two way traffic and visibility for vehicles emerging from private drives/hardstandings is poor. Visibility at the junction with Worksop Road is tolerable in the easterly direction and whilst it could be slightly improved if a boundary wall was lowered and vegetation cut back fronting Nos. 32-34, this would involve land outside of the applicant's control. The Transportation Unit does not consider that the practice nets would, in themselves, generate significantly more vehicular traffic to the site than at present (or could be generated in the future if the club promoted more teams/training etc).

Streetpride (Trees and Woodlands Section): The site contains 8 existing trees and shrubs in the immediate area of the proposed development, positioned approximately as indicated on the attached site location diagram. Of these T1 and T8 Oak, T3 Rowan and T7 Poplar outwardly appear in reasonably good condition with reasonably good future prospects. However, due to their secluded position away from the main highway their removal is unlikely to result in a serious loss of amenity to the area. For this reason they may not meet all the criteria for inclusion within a new Tree Preservation Order to prevent their loss. Also, I understand from discussions with Malcolm Shaw (representing the applicants) on 25 July 2011 that they are willing to plant new trees in a nearby location to help provide future amenity.

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

In this instance there are three main issues for consideration:

- (i) The principle of development in the Green Belt and the impact upon the openness and character of the Green Belt.
- (ii) The impact upon the existing landscaping.
- (iii) The highway access to the site and any potential increase in vehicular traffic.
- (iv) Other comments raised by objectors.

(i) The principle of development in the Green Belt and the impact upon the openness and character of the Green Belt:

Policy ENV1 'Green Belts' states that essential facilities for outdoor sport and outdoor recreation, which preserve the openness of the Green Belt and which do not conflict

with the purposes of including land within it, are appropriate development in the Green Belt. PPG2 Green Belts adds that the provision of essential facilities for outdoor sport and outdoor recreation and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it is not inappropriate.

The site has a long established use as a Cricket club, which represents an appropriate outdoor recreational use in the Green Belt. In terms of the proposed structure, the netting and green palladin fencing will have light appearance blending into the general green landscape character of the area. The Astro turf hardstanding will likewise blend into the overall green landscape and offer a valuable all weather training resource for local cricketers. Existing trees and shrubs adjacent to the proposed nets would be retained, and additional planting provided.

In view of the above it is considered that the nets provide an essential facility for the cricket club and do not affect the openness of the Green Belt. As such, the development would comply with both Policy ENV1 of the UDP as well as guidance in PPG2.

(ii) The Impact upon the existing landscaping:

The Council's arboriculturist has indicated that the existing trees and hedgerows on site do not warrant protection and that the overall impact upon the amenity of the area will not be harmed subject to an adequate landscaping plan being implemented. For this reason a condition has been attached requiring a landscaping condition be submitted prior to the commencement of development.

(iii) The highway access to the site and any potential increased vehicular traffic:

With regard to the highway access this is via the narrow Green Lane onto Worksop Road. The access, whilst not ideal, is longstanding and has served the club since it formed over 100 years ago. The proposed nets will replace an existing single cricket net currently used and it is considered that the additional traffic to be generated by the proposed development would be acceptable and not warrant refusal on highway grounds.

(iv) Other comments raised by objectors:

Objectors have raised concerns about damage to their properties, waste generation, and noise generation from additional potential functions at the site though these concerns are not considered to be relevant to the consideration of the application itself, being for the provision of additional practice nets.

Conclusion

The proposed cricket practice nets are considered to represent essential facilities for outdoor sport and outdoor recreation, which preserve the openness of the Green Belt. The netting and green palladin fencing will have a light appearance blending into the general green landscape character of the area and subject to an appropriate landscaping scheme will not be detrimental to the openness and character of the Green Belt.

In terms of highway access the proposed Cricket nets are not considered to generate a significant increase in traffic movement along Green Lane and will not be detrimental to

the free and safe movement of traffic. As such the proposed cricket should be granted conditional planning approval.

RB2011/0801

Erection of solar farm at Brandon, Cumwell Lane, Hellaby.

RECOMMENDATION: Grant Conditionally

STATEMENT OF REASONS FOR DECISION TO *GRANT PLANNING PERMISSION*

Having regard to the Development Plan and all other relevant material considerations as set out below:

Development Plan:

(i) Regional Strategy (RS)

Policy YH2 'Climate Change and Resource Use,' states that Councils should meet targets to reduce green house gas emissions in the Region by 2016 by 20 - 25% with further reductions by increasing renewable energy capacity.

Policy ENV5 'Energy,' states the Region will maximise improvements to energy efficiency and increases in renewable energy capacity. The target for installed grid connected renewable energy for Rotherham is 11 MW by 2010 and 36MW by 2021.

Policy ENV8 'Biodiversity,' states: "The Region will safeguard and enhance biodiversity and geological heritage, and ensure that the natural environment functions as an integrated network of habitats..."

Policy ENV10 'Landscape' states that the Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber. It does not recognise the current application site as being of regional / sub regional importance.

(ii) *Local Planning Policy*

The Rotherham Unitary Development Plan identifies the site as being within the Green Belt. The following Policies are relevant:

Policy ENV1 Green Belt states that inappropriate development in the Green Belt will not be allowed unless there are very special circumstances to clearly outweigh the harm caused.

Policy ENV2.2 Interest outside Statutorily Protected Sites states that development which affects any interests will only be allowed where it can be shown that the benefits outweigh the need to safeguard the interest.

Policy ENV3 Borough Landscape recognises the importance of maintaining and enhancing the landscape.

Policy ENV 3.2 Minimising the Impact of Development states that the Council will seek to minimise the impact of development.

Policy ENV 3.4 Trees Woodlands and Hedgerows states that the Council will seek to maintain and enhance the tree and hedgerow cover of the Borough.

Policy ENV3.6 'Agricultural Land Quality,' advises that development proposals will need to be assessed against the need to protect the best and most versatile agricultural land.

Policy ENV3.7 Control of Pollution states that the Council will use all available powers to reduce pollution.

Policy UTL3.3 'Energy Conservation' encourages new development proposals which promote and improve energy efficiency.

Policy UTL3.4 'Renewable Energy' favours proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

Other Material Considerations:

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

PPS1 'Delivering Sustainable Development,' has the core principle of sustainable development and amongst other things aims to:-

- (i) Effectively protect the environment.
- (ii) Promote prudent use of natural resources.
- (iii) Protect and enhance the natural and historic environment.
- (iv) Address the causes and potential impacts of climate change.

The Supplementary Annex to PPS1 'Planning and Climate Change Supplement,' reinforces and emphasises the importance of addressing climate change and states: "The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development." It adds that "Changes in climate are likely to have far-reaching and potentially adverse, effects on our environment and society for which we need to prepare and adjust." It adds that: "Where there is any difference in emphasis on climate change in this PPS and others in the national series this is intentional and this PPS takes precedence."

The Supplementary Annex to PPS1 adds that the planning system should help to "secure enduring progress against the UK's emissions targets by direct influence on energy use and emissions," and that one of the "Key Principles" is to; "make a full

contribution to delivering the Government's climate change programme and energy policies and in doing so contribute to global sustainability.”

It goes on to say that where strategic (RS) and local plans (LDF) have not been updated to reflect this supplementary PPS, planning authorities should have regard to this PPS as a material consideration which may supersede policies in an existing development plan.

PPG2 'Green Belts,' states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances. Paragraph 3.2 states that "Inappropriate development is by definition harmful to the Green Belt." "Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development."

PPS7 'Sustainable Development in Rural Areas,' states that Local Planning Authorities in formulating their policies in development plan reviews (Local Development Framework) should (amongst other things):

- (iv) Provide for the sensitive exploitation of renewable energy resources in accordance with the policies set out in PPS22 'Renewable Energy.'

PPS9 'Biodiversity and Geological Conservation,' aims, amongst other things, to protect and enhance biodiversity as part of the development proposals.

PPS22 'Renewable Energy' and the related Companion Guide 'Planning for Renewable Energy' give details of the Government's policy regarding Renewable Energy development, which must be taken into account when formulating Regional Strategies and Local Development Frameworks. It indicates that planning authorities should adhere to the following key principles:

- (i) Renewable energy developments should be capable of being accommodated throughout England where the technology is viable and environmental economic and social impacts can be addressed.
- (ii) Regional Strategies and Local Development Frameworks should contain policies designed to promote rather than restrict development of renewable energy resources.
- (iii) Local Planning Authorities should set out criteria based policies that will be applied in assessing applications. Policies which rule out or constrain renewable energy development should not be included without sufficient reasoned judgement. The Government will intervene in the plan making process if constraints are considered too great or are poorly justified.
- (iv) Wider environmental and economic benefits of renewable energy projects whatever their scale, are material considerations that should be given considerable weight when determining planning applications, including those in Green Belt locations.
- (v) Local Planning Authorities should not make assumptions about technical and commercial feasibility of renewable energy projects.

- (vi) Local Planning Authorities should not reject proposals because output is small.
- (vii) Local Planning Authorities should foster community involvement and applicants should engage in active consultation before planning applications are submitted.
- (viii) Development proposals should demonstrate benefits as well as how any impacts have been minimised.

For the following reasons:

It is considered that the generation of renewable energy, the reduction in CO2 emissions, and all the benefits associated with the reduction in global warming and combating climate change, represent the very special circumstances sufficient to clearly outweigh the harm caused by inappropriate development and other identified harm, including the impact on the openness of the Green Belt.

The development will result in an overall biodiversity gain and will have no adverse impact upon residential amenity or the safety of users of the M18 Motorway and adjacent highway network.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

Conditions & Reasons Imposed:

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

Within 25 years and six months following completion of construction of development, or within six months of the cessation of electricity generation by the solar farm facility, or within six months following a permanent cessation of construction works prior to the solar facility coming into operational use, whichever is the sooner, the solar PV panels, frames, foundations, inverter modules and all associated structures and fencing approved shall be dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted and approved in writing by the Local Planning Authority no later than three months following the cessation of power production.

Reason

In the interests of the visual amenity and openness of the Green Belt and to protect the best and most versatile agricultural land in accordance with Policies ENV1 'Green Belts,' UTL3 'Environmental Impact of Service Installations,' and ENV3.6 'Agricultural Land Quality,' of the Unitary Development Plan.

03

Before the development hereby approved is commenced on site details of all construction activities, methods of working and timings shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason

In the interests of the character of the Green Belt in accordance with ENV1 'Green Belts,' ENV3.7 'Control of Pollution,' and UTL3 'Environmental Impact of Service Installations' of the Unitary Development Plan.

04

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

Reason

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

05

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

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

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

Reason

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

06

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

Reason

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

07

No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

Reason

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

08

Before the development hereby approved is commenced on site, details of the location, size and method of construction of any temporary accesses, working and hard standing areas, parking areas and internal access ways shall be submitted to and approved by the Local Planning Authority in writing. The details as approved shall be implemented in full prior to the construction of the solar farm. The temporary working and hardstanding areas shall be removed and the land restored to its original condition within 28 days of the final completion of the development hereby approved.

Reason

In the interests of the character of the Green Belt in accordance with Policies ENV1 'Green Belts,' ENV3.7 'Control of Pollution,' and UTL3 'Environmental Impact of Service Installations' of the Unitary Development Plan.

09

No external artificial lighting or CCTV provision shall be installed during the operation of the site as a solar farm without the prior written agreement of the Local Planning Authority.

Reason

In the interests of the character of the Green Belt in accordance with Policies ENV1 'Green Belts,' and ENV3.7 'Control of Pollution,' of the Unitary Development Plan, and to minimise the potential for disturbance to local amenity and wildlife in accordance with Planning Policy Statement 9.

10

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order amending, replacing or re-enacting that Order), no fixed plant or machinery, buildings, structures and erections, or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at the site without prior planning permission from the Local Planning Authority.

Reason

In the interests of the character of the Green Belt in accordance with Policy ENV1 'Green Belts' of the Unitary Development Plan.

11

Prior to the commencement of the development hereby approved, full details of design and external finishes and any works associated with the provision of the inverters shall have been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of the character of the Green Belt in accordance with Policy ENV1 'Green Belts' of the Unitary Development Plan.

12

Prior to the erection of perimeter fencing and security gates, further details shall be submitted to and approved in writing by the Local Planning Authority that demonstrates permeability to small mammals such as badgers. The approved details shall be implemented and maintained in completed form for the duration of the consent unless as otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of ecology in accordance with Planning Policy Statement 9.

Informatives

INF 25 Protected species

Wildlife Legislation

The protection afforded to protected sites and species under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt and an appropriately qualified ecologist consulted.

The main piece of legislation relating to nature conservation in Great Britain is the Wildlife and Countryside Act 1981. This Act is supplemented by the Conservation of Habitats and Species Regulations 2010 (Habitat Regulations), the Countryside and Rights of Way (CRoW) Act 2000 (in England and Wales) and the Natural Environment and Rural Communities (NERC) Act 2006 (in England and Wales).

All species of bats and their roosts are protected by UK and European legislation. Roosts are equally protected whether bats are present or not.

The Great Crested Newt is protected by UK and European legislation. The legislation covers all life stages; eggs, tadpoles and adult newts are all equally covered.

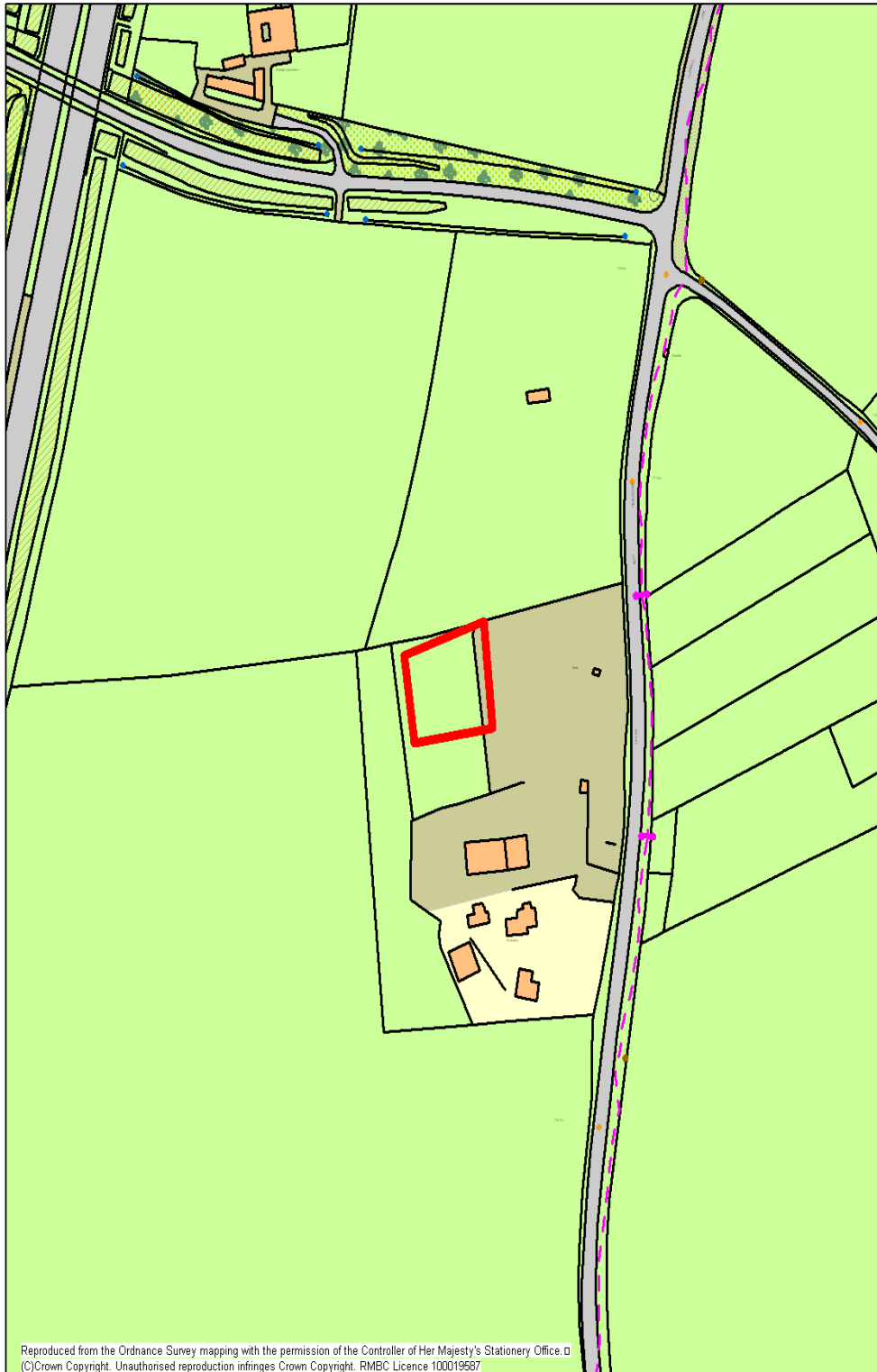
Otters and their holts, including hovers and couches, which are otter resting places above ground, are protected by UK and European legislation.

Water Vole are protected against killing, injuring or taking; possession or control; damage or destruction of its places of shelter, or disturbance while such animals are occupying places of shelter.

All birds, their nests and eggs are protected by UK law and it is an offence, with certain exceptions, to kill, injure or take any wild bird, to take, damage or destroy the nest of any wild bird while it is in use or being built, and to take or destroy the egg of any wild bird. Certain species receive increased protection making it an offence to disturb any wild bird listed on Schedule 1 while it is nest building or is at (or near) a nest with eggs or young; or disturb the dependant young of such a bird.

Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett. Interference with a sett includes blocking tunnels or damaging the sett in any way.

The information provided is a summary only; for definitive information, primary sources should be consulted.



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Scale 1:2500

Date: 22/08/2011

Map Centre: □
449828,391064

Rotherham MBC

Env't & Dev't Services □
Bailey House □
Rawmarsh Road □
Rotherham S60 1TD □
□



Background

The site to which the application relates has been the subject of the following applications:

RH1968/5560 - Garage for transport contractor's vehicles
GRANTED CONDITIONALLY 05/08/68.

RB1978/0156 - Erection of a dwellinghouse
REFUSED 19/04/78.

RB1981/1369 – Conversion of former workshop to dwelling.
REFUSED 22/10/81
Appeal: DISMISSED 18/03/82

RB1991/0115 - Two storey office extension workshop extension and change of use of site to commercial vehicle sales etc.
REFUSED 21/03/91

RB2003/1824 - Change of use from contractor's depot to building/landscaping materials supplier
REFUSED 04/12/03

RB2010/0247 - Application for Lawful Development Certificate re: existing use of land as haulage yard
GRANTED 21/05/10

As a result of the judgment in the Cala Homes (South) Ltd case Regional Strategies have been reinstated as part of the statutory 'development plan.' Decisions on planning applications therefore must be made in accordance with the 'development plan' unless material considerations indicate otherwise (S.38(6) of the Planning and Compulsory Purchase Act 2004). The Government's proposal to abolish Regional Strategies is capable, as a matter of law, of being a material consideration – the weight to be given to it is a matter for the decision maker.

In respect of the proposed development, regard must be had to the provisions set out in the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the EIA Regs), and Circular 02/99 'Environmental Impact Assessment,' in order to consider whether developments require an assessment under either Schedule 1 or Schedule 2 of the EIA Regulations.

In respect of the proposed development, it is not considered that this would fall within the scope of the above Regulations and therefore an Environmental Impact Assessment is not required.

In 2008 The Climate Change Act 2008 legally bound UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. Britain also has an obligation to hit an EU target of generating 15% of our energy from renewable sources by 2020.

The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

In 2009 European Community Directive requires that 15% of the UK's total energy use should be supplied by renewables by 2020.

The 2009 UK Renewable Energy Strategy commits the UK to 15% of renewable energy supplies by 2020.

Site Description & Location

The application site is a roughly rectangular field to the west of the existing and established haulage yard off Cumwell Lane. The field is currently used for the grazing of horses and is approximately 0.18 hectares in area. The northern boundary of the field consists of a large hedge beyond which lies open fields (believed to be used for grazing); the southern boundary consists of a further existing hedgerow behind which lies a large detached garage. The eastern boundary consists of existing palisade fencing beyond which is the open parking area to the established haulage yard area. To the west lie open grazing fields demarked with electric fencing.

Access to the site is via an existing metalled access route through the haulage yard, with a track leading along the site's western boundary which provides access to the fields to the north.

The M18 Motorway is located approximately 215 metres to the west of the application site in a cutting; whilst the applicant's residential property is located approximately 50 metres to the south of the site behind an existing portal framed industrial building. Set at some 260 metres to the north is Sandy Lane Farm which is a part residential / part commercial (dog kennels) enterprise, whilst approximately 270 metres to the east across undulating open countryside is located no. 1 Newhall Cottages.

Proposal

The application seeks full planning permission for a solar energy farm set in an open field to the north of the existing haulage premises, the solar energy farm includes the installation of solar panels with associated ancillary works / equipment on current grazing land which amounts to approximately 0.18 hectares. The proposed farm seeks to create an electrical output of 50KW, which would generate enough clean energy to power approximately 9 'average' households per year, however it is anticipated that the proposal would supply electricity to the applicants existing haulage business with any surplus electricity generated would be fed into the national grid.

The proposal itself would require the installation of aluminium mounting frames, set in four rows running in an east - west orientation and separated by a gap of some 6.4 metres to allow maintenance access and to prevent shadowing. The panels are to be mounted at an angle of 30 degrees from the ground to maximise solar gain and would at their highest point be set some 2.5 metres from ground level. The method of affixing the frame to the ground is indicated as being of a pile driven operation therefore negating the need for concrete fixing.

The applicant has submitted a supporting document in respect of the construction of the photovoltaic (PV) panels which comprise of wafer thin silicone cells laminated together and placed on a substrate, covered in with protective glass and inserted into an aluminium frame to form a single module. Each panel has around 36 individual cells

wired in series producing around 12 volts. The individual solar cells are arranged in long rows as it builds and increases current. The nature of photovoltaic panels is to absorb, rather than reflect, sunlight, and the PV panels do not create any noise.

In regard to the electricity generated by the PV panels, supporting information submitted with the application further states: "The direct current (DC) generated by the PV panels would be converted to alternating current (AC) by inverters/transformers and fed directly into the electric transmission network. The inverter would be placed next to the existing electricity meter at Network Grid connection point, without the need for a new sub-station or building housing to the inverter."

Other additional supporting documentation submitted with the application include an analysis into the reflectivity of such panels compared against other materials such as car windscreens, painted surfaces etc. The conclusion of the report identifies that the reflections coming from PV modules are significantly less intense than others resulting from other objects, particularly those coming from vehicles as well as, other commonly used materials.

Development Plan Allocation and Policy

Development Plan:

(i) Regional Strategy (RS)

Policy YH2 'Climate Change and Resource Use,' states that Councils should meet targets to reduce green house gas emissions in the Region by 2016 by 20 - 25% with further reductions by increasing renewable energy capacity.

Policy ENV5 'Energy,' states the Region will maximise improvements to energy efficiency and increases in renewable energy capacity. The target for installed grid connected renewable energy for Rotherham is 11 MW by 2010 and 36MW by 2021.

Policy ENV8 'Biodiversity,' states: "The Region will safeguard and enhance biodiversity and geological heritage, and ensure that the natural environment functions as an integrated network of habitats..."

Policy ENV10 'Landscape' states that the Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber. It does not recognise the current application site as being of regional / sub regional importance.

(ii) Local Planning Policy

The Rotherham Unitary Development Plan identifies the site as being within the Green Belt. The following Policies are relevant:

Policy ENV1 'Green Belt,' states that inappropriate development in the Green Belt will not be allowed unless there are very special circumstances to clearly outweigh the harm caused.

Policy ENV2.2 'Interest outside Statutorily Protected Sites,' states that development which affects any interests will only be allowed where it can be shown that the benefits outweigh the need to safeguard the interest.

Policy ENV3 'Borough Landscape,' recognises the importance of maintaining and enhancing the landscape.

Policy ENV3.2 'Minimising the Impact of Development,' states that the Council will seek to minimise the impact of development.

Policy ENV3.4 'Trees Woodlands and Hedgerows,' states that the Council will seek to maintain and enhance the tree and hedgerow cover of the Borough.

Policy ENV3.6 'Agricultural Land Quality,' advises that development proposals will need to be assessed against the need to protect the best and most versatile agricultural land.

Policy ENV3.7 'Control of Pollution,' states that the Council will use all available powers to reduce pollution.

Policy UTL3.3 'Energy Conservation' encourages new development proposals which promote and improve energy efficiency.

Policy UTL3.4 'Renewable Energy' favours proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance.

Other Material Considerations:

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

PPS1 'Delivering Sustainable Development,' has the core principle of sustainable development and amongst other things aims to:-

- (i) Effectively protect the environment.
- (ii) Promote prudent use of natural resources.
- (iii) Protect and enhance the natural and historic environment.
- (iv) Address the causes and potential impacts of climate change.

The Supplementary Annex to PPS1 'Planning and Climate Change Supplement,' reinforces and emphasises the importance of addressing climate change and states: "The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development." It adds that "Changes in climate are likely to have far-reaching and potentially adverse, effects on our environment and society for which we need to prepare and adjust." It adds that: "Where there is any difference in emphasis on climate change in this PPS and others in the national series this is intentional and this PPS takes precedence."

The Supplementary Annex to PPS1 adds that the planning system should help to “secure enduring progress against the UK’s emissions targets by direct influence on energy use and emissions,” and that one of the “Key Principles” is to; “make a full contribution to delivering the Government’s climate change programme and energy policies and in doing so contribute to global sustainability.”

It goes on to say that where strategic (RS) and local plans (LDF) have not been updated to reflect this supplementary PPS, planning authorities should have regard to this PPS as a material consideration which may supersede policies in an existing development plan.

PPG2 ‘Green Belts,’ states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances. Paragraph 3.2 states that “Inappropriate development is by definition harmful to the Green Belt.” “Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.”

PPS7 ‘Sustainable Development in Rural Areas,’ states that Local Planning Authorities in formulating their policies in development plan reviews (Local Development Framework) should (amongst other things):

- (iv) Provide for the sensitive exploitation of renewable energy resources in accordance with the policies set out in PPS22 ‘Renewable Energy.’

PPS9 ‘Biodiversity and Geological Conservation’ aims, amongst other things, to protect and enhance biodiversity as part of the development proposals.

PPS22 ‘Renewable Energy’ and the related Companion Guide ‘Planning for Renewable Energy’ give details of the Government’s policy regarding Renewable Energy development, which must be taken into account when formulating Regional Strategies and Local Development Frameworks. It indicates that planning authorities should adhere to the following key principles:

- (ix) Renewable energy developments should be capable of being accommodated throughout England where the technology is viable and environmental economic and social impacts can be addressed.
- (x) Regional Strategies and Local Development Frameworks should contain policies designed to promote rather than restrict development of renewable energy resources.
- (xi) Local Planning Authorities should set out criteria based policies that will be applied in assessing applications. Policies which rule out or constrain renewable energy development should not be included without sufficient reasoned judgement. The Government will intervene in the plan making process if constraints are considered too great or are poorly justified.
- (xii) Wider environmental and economic benefits of renewable energy projects whatever their scale, are material considerations that should be given

considerable weight when determining planning applications, including those in Green Belt locations.

- (xiii) Local Planning Authorities should not make assumptions about technical and commercial feasibility of renewable energy projects.
- (xiv) Local Planning Authorities should not reject proposals because output is small.
- (xv) Local Planning Authorities should foster community involvement and applicants should engage in active consultation before planning applications are submitted.
- (xvi) Development proposals should demonstrate benefits as well as how any impacts have been minimised.

Publicity

The application has been advertised by way of press and site notice and individual neighbour letters. No letters of representation have been received.

Consultations

Transportation Unit: Raises no objections to the proposals.

Director of Housing and Neighbourhoods (Environmental Health): No objections.

Ecology Development Officer: Raises no objections to the proposals as the development is of limited size and is not considered to cause any ecological impact other than minor land take of low interest grassland.

Streetpride Service (Landscape Design): Comment that the development would appear to present a low environmental impact and due to the scale and location of the proposal i.e. none sensitive landscape with no apparent heritage assets, the development is acceptable subject to the recommended conditions.

Streetpride Service (Trees & Woodlands): Raises no objections subject to the recommended conditions.

Campaign to Protect Rural England: Are supportive of the application.

Natural England: Comments that the Council should assess and consider the possible impacts resulting proposal upon protected species, local wildlife sites and biodiversity enhancements in determining the application.

Robin Hood (Doncaster) Airport: Raises no objections as the development falls outside the 15Km safeguarding zone.

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The main issues to consider in respect of the determination of this application are: -

- (i) The principle of development in view of the Green Belt location and planning policies and guidance.
- (ii) The visual impact on the character and appearance of the area and the openness of the Green Belt.
- (iii) The impact on biodiversity and loss of agricultural land.
- (iv) The impact on the amenities of nearby residents.
- (v) The impact on traffic and highway safety.
- (vi) Other material considerations.
- (vii) Very special circumstances to overcome the harm caused by inappropriate development, and any other harm.

(i) The principle of development in view of the Green Belt location:

The application site is within the Green Belt, wherein the construction of new buildings within the Green Belt is inappropriate development unless it is essential for the use of agriculture or forestry, essential facilities for outdoor sport or outdoor recreation, limited extensions to existing dwellings or limited infilling in existing villages. The proposal is therefore inappropriate development in the Green Belt. As such the proposal is therefore contrary to UDP Policy ENV1 'Green Belt' and the advice set out in PPG2 'Green Belts.'

Paragraph 3.2 of PPG 2 Green Belts, states that "Very special circumstances to justify inappropriate development will not exist, unless the harm by reason of inappropriateness or any other harm is clearly outweighed by other circumstances." These are considered in more detail below.

(ii) The impact on the appearance of the area and openness of the Green Belt:

The site to which the application relates occupies only a minor area of an extensive open area of the Green Belt and lies immediately adjacent an extensive haulage yard which comprises of hard standings, buildings and storage areas. In context with the surrounding areas the proposed development would be shrouded by perimeter hedgerows to the existing grassland and from the public highway by the existing fencing, buildings and plant on the haulage yard to the east of the development proposal site. Overall, it is considered that the character of the area is not sufficiently attractive, remote or tranquil for the development to result in a negative impact, sufficient to justify refusal.

In terms of the overall height of the proposal, this is limited to the minimum height necessary for optimisation of the solar array. However at some 2.5 metres in height it is not considered that any immediate short or longer range views of the site can be obtained from surrounding public vantage points. It is not considered therefore that the proposals would in any way be more visually prominent than the existing building and operation which exists at the adjacent site and with the recommended conditions in respect of landscape retention and protection, it is not considered that the proposal would have a detrimental impact on the openness of the Green Belt in this location. This

view is further supported by the Campaign to Protect Rural England, and the Council's Landscape Architect. As such, the proposals accords with UDP Policy ENV1 'Green Belt' and advice in PPG2 Green Belts.

(iii) The impact on biodiversity and loss of agricultural land:

The Council's Ecologist has assessed the scheme and concluded that the development owing to its limited size is not considered to cause any ecological impact other than minor land take of low interest grassland which is currently used for the grazing of horses. The hedgerows to the north and east form two of the wider sites boundaries; however, the extent of the solar farm does not have any impact on these existing boundaries and taking account of the evaluation made by the Council's Trees and Woodlands officer, the proposal further accords with UDP Policy ENV3.4 'Trees Woodlands and Hedgerows.'

Whilst PPS9 recommends that all development demonstrates a level of biodiversity gain, it is not considered in this case the proposals would result in a loss to biodiversity. The applicant has confirmed that there is no requirement or need for external lighting, and that the fencing as proposed around the perimeter of the site would include 'bob' holes left around the fencing and a gap left below the fencing to allow all wildlife to get in and around the enclosure, whilst still keeping a secure fenced perimeter for the system and any cattle grazing around it.

Whilst a suggestion has been put forward by the Council's Ecologist to cease grazing on the site and to provide suitable management measures, in order to gradually enhance the interest of this section of grassland and to prevent rank, fast-growing grassland species dominating the area. It is not considered owing to the scale of the land that the development would result in a negative impact on this issue to justify refusal of the scheme.

In respect of the loss of agricultural land UDP Policy ENV3.6 'Agricultural Land Quality,' advises that development proposals will need to be assessed against the need to protect the best and most versatile agricultural land and will only be permitted in exceptional circumstances when it is shown that the use of lower quality land is not practicable.

Planning Policy Statement 7 'Sustainable Development in Rural Areas,' further reiterates the above policy and states: "That the presence of the best and versatile agricultural land should be taken into account alongside other sustainability considerations. It does add that significant development of agricultural land should seek to use areas of poorer quality land."

In this case, the site to which the application relates owing to its overall size has not been used as arable farmland but for the grazing of horses over a significant period of time. Records indicate that the land was last assessed for its grading during the period of 1968 – 1972 and at that point in time was designated at Grade 3. Given that agricultural land is classified into five grades numbered 1-5, where grade 1 is excellent quality agricultural land, and grade 5 is very poor quality agricultural land. It would suggest that the site historically was of 'average' quality.

In terms of the scheme and as to how this would ultimately affect the land quality, it should be noted that little works would be required to the land itself. The frames for the

photovoltaic panels would be pile driven into the ground thus avoiding the need for concrete, although it is acknowledged that the perimeter fencing posts would likely require limited concrete fixings. The inverter units are likely to be set on limited concrete bases, and although there would be a need for trenches to be built underground for cables to run, overall, the disruption to the soil during the use of the land is considered minimal.

Additionally, as the proposals are considered a temporary use, albeit for potentially 25 years, where the land can be restored back to agricultural in the long term. The development would not therefore be “irreversible,” and whilst there would be limited disruption to the land, it could be reverted back to agricultural use following the removal of the development. Although the siting of such development on poorer quality agricultural land would be preferred, it is not considered that the development would cause any long-term loss of this Grade 3 agricultural land.

(iv) The impact on the amenities of nearby residents:

With the exception of the applicants residential property which lies some 50 metres to the south of the site behind an existing portal framed industrial building. The nearest residential properties to the site are located some 260 metres to the north at Sandy Lane Farm and some 270 metres to the east at 1 Newhall Cottages. Given the site’s isolated location, the proposal would not be prominently visible from these properties due to the lay of the land and natural screening afforded by hedgerows.

Additionally, the applicant has supplied technical documentation to demonstrate that the panels are manufactured so as to absorb (rather than reflect) sunlight and as such reflectance from the solar panels is very minimal. In view of the comments received from the Director of Housing and Neighbourhoods (Environmental Health) it is not considered that the proposals if implemented, would unduly affect the amenities of these residents through such matters. As such, it is considered that the proposal would comply with UDP Policy ENV3.7 ‘Control of Pollution.’

(v) The impact on traffic and highway safety:

As this is the first proposal of this nature to be submitted in the Rotherham area. In highway terms the Council’s Transportation Unit consider the issues arising from the proposal to be traffic generation; and possible glare/distraction to motorists on the M18 / highways in the area.

In respect of proposed traffic generation, the current haulage operation is accessed via a single entry and exit point off Cumwell Lane which is considered to be of adequate alignment and visibility to both vehicles entering / exiting the site and for users of the highway. The applicant has confirmed that once operational, the site will require minimal access with technical personnel in a car or Light Goods Vehicle anticipated visiting infrequently (either annually or once a quarter). Whilst the most intense highway impact will be during the period of construction, it is however noted from the supplied technical information that the pile driving operation for the installation of the frames (up to 250 pile driven profiles) can be achieved with one machine in a day. Overall construction of the frames is undertaken off site and delivered to the site according to the project plan and the PV modules themselves are fitted by limited personnel thus achieving cost effectiveness. It is not therefore anticipated that overall a significant personnel workforce would be required on site to set up such facility, however it is

recommended that a suitably worded condition be attached to any planning permission granted in order to ensure details of all construction activities, methods of working and timings are agreed in order to avoid any conflict of activities at the site.

In terms of the possible glare/distraction to motorists on the M18 / highways in the area, the supplied technical documentation demonstrates that the panels are manufactured so as to absorb sunlight and as such reflectance from the PV modules is very minimal. Taking account of the location and southern facing position of the PV modules, the Transportation Unit does not raise issue to the scheme on this matter.

(vi) Other material considerations:

The comments received from Robin Hood (Doncaster) Airport are noted in that the location of the development falls outside the controlled airspace protection zone. However, given that the development is of a small scale and the taking account of the glare issue raised above it is not considered that the proposal would impact upon air traffic safety.

(vii) Very special circumstances to overcome the harm caused by inappropriate development, and any other harm:

The applicant has provided reasoning as to why the development has been located within the Green Belt and to what special circumstances exists to justify the inappropriate development within the Green Belt. These are detailed both in the Design and Access Statement and the additional submitted supporting documentation.

The application demonstrates a sound approach to site selection in this instance dismissing the alternative siting on the existing buildings on the adjacent site due to the asbestos containing material used as the roof coverings, and the necessity to completely strip and recover the roof along with substantial structural upgrading of the roof and structural framework of the buildings. This was discounted as being both feasibly and economically unviable and would also lead to asbestos waste having to be deposited in landfill somewhere, which is considered not to be very environmentally friendly.

Further to the above, European Community Directive 2009 requires that 15% of the UK's total energy use should be supplied by renewables by 2020. The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels.

The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

Policy ENV5 'Energy,' of the Regional Strategy for Yorkshire and the Humber which identifies specific commitments for renewable for installed renewable energy capacity of 100MW for South Yorkshire by 2010, the targets for Rotherham being 11MW by 2010, and 36MW by 2020.

Policy ENV1 'Green Belts,' indicates that inappropriate development in the Green Belt will not be allowed unless there are very special circumstances.

Paragraph 3.2 of PPG2 'Green Belts,' states that "Very special circumstances to justify inappropriate development will not exist, unless the harm by reason of inappropriateness or any other harm is clearly outweighed by other circumstances."

PPS22 'Renewable Energy,' strongly advocates the use of energy from renewable sources, indicating that its production is a material consideration carrying significant weight in relation to planning applications, and that the wider benefits of increased production of energy from renewable resources may constitute very special circumstances in relation to development in Green Belt areas. Paragraph 13 states: "Policy on development in the Green Belt is set out in PPG2. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the Green Belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."

Paragraph 13 of PPS22 Renewable Energy attaches significant weight to the increased production of renewable energy. This advice is reflected in Policy ENV5 'Energy' of the Regional Strategy for Yorkshire and the Humber. It is therefore considered that the wider benefits of pollution free renewable energy in this instance in combating climate change clearly outweigh the harm caused by inappropriate development and other identified harm.

Finally, Policy ENV3.7 'Control of Pollution,' indicates that the Council will not grant permission for development which will give rise to pollution and will support proposals which reduce pollution levels in the Borough. The applicant has indicated that with a predicted installed capacity, the proposal will reduce harmful emissions of CO₂, and the power generation of some 41,513 kWh per year based on an operational life span of 25 years, would equate to 1,037,825 kWh.

Having regard to the particular advice in paragraph 13 of PPS22, the limited visual impact of the proposed development; the applicant's selection criteria; and the overall environmental benefits, significant weight must be afforded to the production of energy from a renewable resource. It is therefore considered that these are considered to amount to very special circumstances that clearly outweigh the harm by inappropriateness of the development and the harm in the form of a departure from both local and national planning policies, such that the development can be permitted in the Green Belt.

Conclusion

It is considered that the generation of renewable energy, the reduction in CO₂ emissions, and all the benefits associated with the reduction in global warming and combating climate change, represent the very special circumstances sufficient to clearly outweigh the harm caused by inappropriate development and other identified harm, including the impact on the openness of the Green Belt.

The development will result in an overall biodiversity gain and will have no adverse impact upon residential amenity or the safety of users of the M18 Motorway and adjacent highway network.

It is therefore recommended that planning permission be granted subject to the recommended conditions as set out at the commencement of this report.

RB2011/0840

Proposed erection of 13 No. two storey houses at land off Wood Lane, Treeton, for Jones Homes (Northern) Ltd.

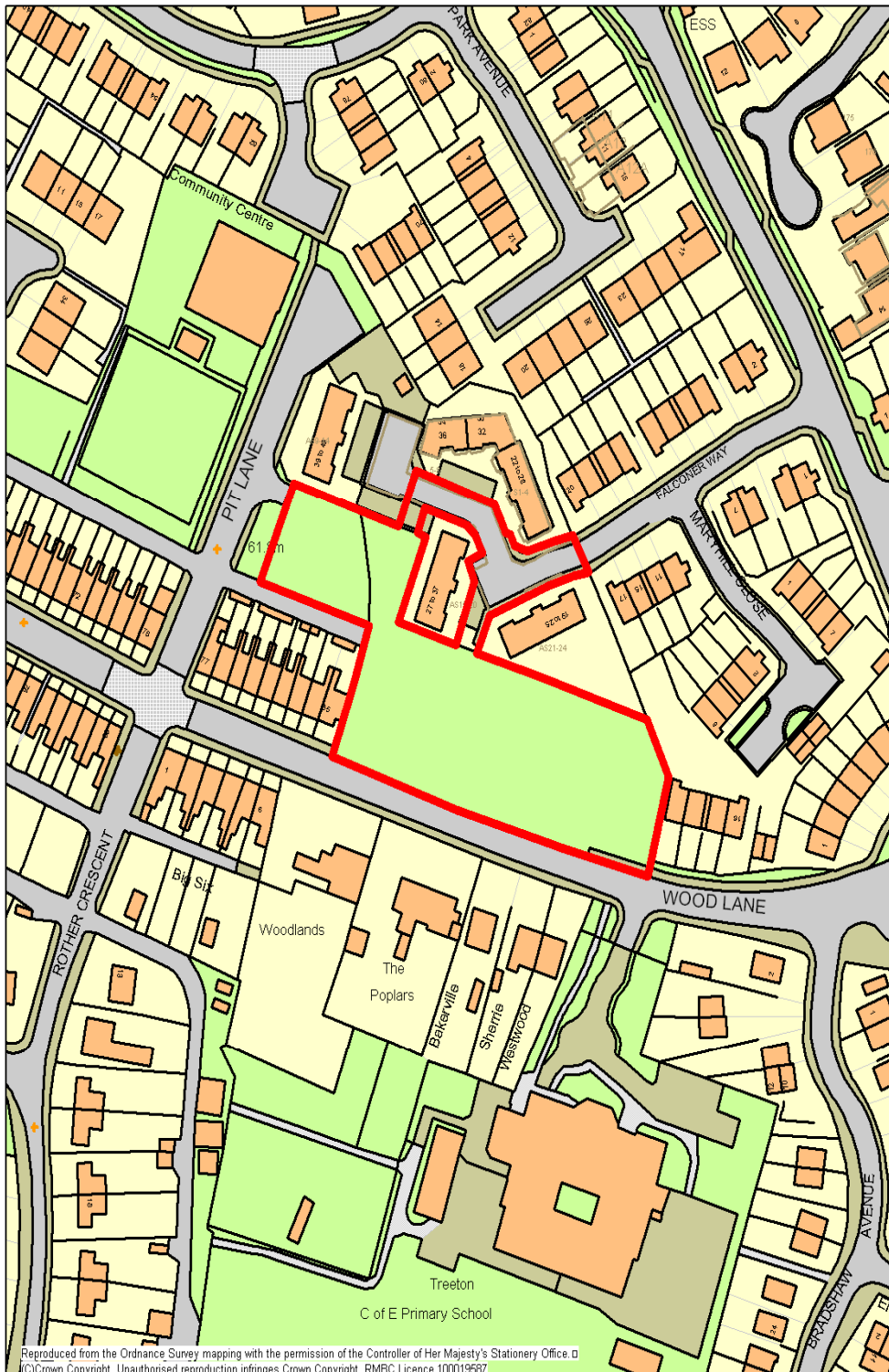
RECOMMENDATION: REFUSE

01.

The site of application is allocated for 'Residential' purposes in the Rotherham Unitary Development Plan and the current application site is the last piece of land within the residential allocation available to provide the allocated community/ commercial uses. It is not considered that sufficient information has been demonstrated to justify the loss of this potential local shopping facility and, as such, the development would be contrary to Policy RET6 Local Shopping Provision of the UDP as well as advice in PPS1 Delivering Sustainable Development, PPS 4 Planning for Sustainable Economic Growth, and PPG 13 Transport.

02

The Council considers that the proposed development would by way of the number and location of the buildings the amount of hard surfacing proposed, and poor pedestrian access provision, constitute a poor form of layout and design, would have an adverse impact on the residential and visual amenities of the area and fail to take the opportunities available for improving the character of the area. The proposal is thereby contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan and national planning guidance in PPS1 'Delivering Sustainable Development'.



<p>Scale 1:1250</p> <p>Date: 22/08/2011</p> <p>Map Centre: □ 443570,367585</p>		<p>Rotherham MBC</p> <p>Env't & Dev't Services □ Bailey House □ Rawmarsh Road □ Rotherham S60 1TD □</p>  <p>Where Everyone Matters</p>
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Background

The site forms part of a large residential development site within Treeton, and has been the subject of a number of applications in the last 20 years, the most relevant being:

RB1992/1577 - Outline application for the erection of residential development. Permission was granted conditionally in November 1997, subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990, which required the developer, amongst other things, to set aside for ten years from the date of the agreement 2 acres of land for the development of community/shopping/leisure facilities within the village. During that period the owners of the land must make best endeavours to negotiate the lease or sale of the land for those purposes.

RB1997/1492 - Erection of 377 dwellings with public open space was granted permission conditionally in April 1998.

RB1999/0417 – Substitution of house types on 17 plots, granted permission July 1999. The properties were on that part of the overall site that was allocated for Retail (Local Centre purposes).

RB2002/1700 - Proposed erection of 24, two and three storey apartments, at land off Wood Lane, Treeton. Permission was granted conditionally, and subject to a Section 106 agreement for the provision of car parking for the village hall and a donation towards educational provision. The application site formed part of the land identified as a potential replacement for the Retail allocation land.

RB2005/0826 - Proposed supermarket and associated car parking on land off Wood Lane Treeton. Permission was granted conditionally in April 2006, though has not been implemented. This site formed part of the remainder of the land identified as a potential replacement for the Retail allocation land.

RB2010/1453 - Proposed erection of 13 No two storey houses. The application was withdrawn.

The current application and RB2010/1453 have been the subject of formal pre application advice to the applicant which noted that, whilst the site is allocated for residential purposes, it is earmarked for commercial/community purposes, being the last piece of land within this residential allocation available to provide the allocated community/ commercial uses. The advice added that proposals for residential development on the land should be accompanied by clear evidence that the land has been extensively marketed as a commercial/community site in recent months, and that there have been no interested parties. The pre-application advice also referred to issues with the proposed design and layout.

Regional Strategy Update (RS)

As a result of the judgment in the Cala Homes (South) Ltd case Regional Strategies have been reinstated as part of the statutory 'development plan.' Decisions on planning applications therefore must be made in accordance with the 'development plan' unless material considerations indicate otherwise (S.38(6) of the Planning and Compulsory Purchase Act 2004). The Government's proposal to abolish Regional Strategies is

capable, as a matter of law, of being a material consideration – the weight to be given to it is a matter for the decision maker.

Site Description & Location

The site is an irregular shaped piece of land in the heart of Treeton village formerly part of the colliery. It is the final area of the ongoing Jones Homes residential development site, and is bounded on all sides by existing residential development. The land falls from west to east as you travel down Wood Lane, and slopes from the front of the site to the rear, towards existing recently constructed apartments on Falconer Way. It has a frontage to both Wood Lane and Pit Street.

Proposal

The application is for the erection of 13 houses, being a mix of terraced, semi-detached and detached houses. The site is in two sections, one fronting Wood Lane, and comprising three detached houses, two pairs of semi-detached houses and one terrace of four houses. A public footpath would be provided between two of the properties to link Wood Lane with Falconer Way at the rear. A separate private drive would be formed off Falconer Way to serve two large detached dwellings, one of which would back on to Pit Lane. Finally, traffic calming is proposed on Wood Lane.

The application is accompanied by an offer of £32,788 towards educational provision in the locality, a Design and Access Statement, a Planning Statement, including a statement relating to marketing of the site, an Ecology Report, a Geo-Environmental Report, and a Building for Life Assessment.

Planning Statement:

Indicates that the land is allocated for residential purposes and forms the last portion of the development site. It also indicates that the site has been marketed extensively for retail, leisure and community purposes throughout the 10 year period referred to in the Section 106 Agreement, and there have been no takers other than the Co-op, which bought part of the site and were granted planning permission for a supermarket. The Co-op have since indicated that the site is not viable and offered to sell the land back to Jones Homes. Jones Homes have recently carried out further marketing exercises (July 2010 and March 2011). The 2010 exercise comprised writing to a wide variety of small supermarket chains, leisure companies, and public house operators, with no positive responses. The letter comprised a description of the site, its planning history and its context generally in relation to the highway network and its sustainability. The 2010 exercise refers to Jones Homes nearly completed development of around 300 houses. The 2011 exercise is similar in nature but corrects information relating to the number of new dwellings recently constructed and currently under construction in Treeton (i.e. circa 400 constructed and a further 92 currently under construction).

Design and Access Statement:

The Design and Access Statement is mainly descriptive, and indicates that the core of the village is mainly older properties, whilst to the west is the recently developed modern housing, which contain more variety in terms of size, scale and materials. The proposals seek to form a transition between the old and the new on the Wood Lane frontage by appropriate design, materials and house types. Properties off Falconer Way, one of which backs onto Pit Lane, would relate more to the new flats adjacent in terms of scale design and materials. The design and location of those two properties

have regard for their impact on adjoining occupiers in terms of their location and orientation.

Ecology Statement:

Concludes that the site contains habitats which are widespread in the area and offer low interest to wildlife. There are no protected species on the site and no species or habitats identified in the Rotherham BAP (Biodiversity Action Plan). Additionally the site has low potential to support breeding birds, and the Ecology Statement recommends that site clearance should avoid the breeding season.

Geo-environmental report:

Concludes that there are no chemical or stability constraints relating to the site.

The applicants have also submitted a further statement in support reiterating that they have marketed the site extensively for commercial/community/ leisure uses with no success and that the site is not viable for such uses. It further argues that the site of application is within housing site H46, whilst the indicative commercial allocation is within housing site H18, and consequently the allocation is lost.

With regard to affordable housing the applicant argues that the proposal is for 13 dwellings on a site of 0.4 hectares, below the threshold for affordable housing provision, and that the proposed aggregation with the previously approved flatted development is not acceptable.

Finally, the applicant has submitted a Building for Life Assessment though it does not provide a 'score' for the proposed development.

Development Plan Allocation and Policy

01 RS Policies

Policies S3 (Urban and Rural Renaissance) and P1 (Strategic Patterns of Development) in relation to new development focus on reused land, directing new development towards existing urban centres wherever possible, accessible by a range of modes of transport particularly public transport.

Policy H4 'The provision of affordable housing' states that:

A The Region needs to increase its provision of affordable housing. Plans, strategies, programmes and investment decisions should ensure the provision of affordable housing to address the needs of local communities.

B LDFs should set targets for the amount of affordable housing to be provided. Provisional estimates of the proportion of new housing that may need to be affordable are as follows:

(i) Up to 30% in other parts of South and West Yorkshire, Hull, North Lincolnshire and North East Lincolnshire."

02 Local Plan Policies

The site is allocated for Residential purposes in the UDP. As noted above, it is

considered that the application should have regard to the Retail (Local Centre) allocation in the vicinity which has been developed for residential purposes. Indeed, the LDF Allocations Development Plan Document identifies the majority of the site (that part fronting Wood Lane) as a potential retail allocation. This is currently out to public consultation and whilst only at consultation stage, is a material consideration in the determination of the planning application.

The following UDP Policies are considered to be relevant:

Policy HG4.3 Windfall Sites states that the Council will determine windfall sites for residential development on their merits.

Policy HG5 The Residential Environment states: "The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone."

ENV2 Conserving the Environment states: "That in considering any development, the Council will ensure that the effects on the wildlife, historic and geological resources of the Borough are fully taken into account ...the Council will ensure the protection of these resources while supporting appropriate development which safeguards, enhances protects or otherwise improves the conservation of the heritage interests. The Council will only permit development where it can be shown that:-

- 1 Development will not adversely affect any key environmental resources,
- 2 Development will not harm the character or quality of the wider environment, and
- 3 Where development will cause environmental losses, these are reduced to a minimum and outweighed by the other enhancements in compensation for the loss."

Policy ENV3.1 Development and the Environment states:

"Development will be required to make a positive contribution to the environment by achieving an appropriate standard of design having regard to architectural style, relationship to the locality, scale, density, height, massing, quality of materials, site features, local vernacular characteristics, screening and landscaping, together with regard to the security of ultimate users and their property. Developers will be required to supply details of design and landscaping for approval by the Council and where developments adjoin or include a transport route or other important linear feature (e.g. a river, canal or stream) the Council will negotiate the creation or maintenance of a landscaped 'green corridor'. Developments which make a positive contribution to the environment through a reduction in harmful emissions, but cannot meet the design standards mentioned above, will be considered on their merits. Encouragement will be given to the inclusion of works of public art within the design of major developments."

Policy RET6 Local Shopping Provision states:

"The Council will support development proposals for convenience shopping facilities serving local communities generally and the needs of those residents with restricted mobility in particular, in established local shopping centres or in new locations of residential growth. The Council seeks to maximise access for all residents, including people with disabilities, to shops and other local services by encouraging the retention of existing local shops and services and opposing changes from retail use to other uses, particularly of village shops, 'corner shops' and shopping parades, unless it can be demonstrated that the retail use is no longer viable."

Policy CR1.2 Educational Facilities states:

“The Council will strive to ensure that the development proposals arising from the educational needs of the Borough’s resident population are met.”

Other Material Considerations

Supplementary Planning Guidance:

South Yorkshire Residential Design Guide (SYRDG):

The SYRDG was adopted by the Council as best practice following public consultation in May 2011 pending consideration of its adoption (all or in part) as a Supplementary Planning Document following adoption of the LDF Core Strategy. It notes:

In order to achieve high quality residential environments, all new development of ten or more dwellings in South Yorkshire will be required to achieve a score of at least Good (Silver) in a Building for Life assessment (a score of 14 or 15 out of 20).

N2.1 Character areas:

The character appraisal should identify the wider landscape character area and settlement type in which the site is located. The result should then be the identification of distinct local sub-area that forms the immediate context of the site. The primary design source for maintaining character should be the character area in which the site is located.

If the area is not deemed a positive source, a new and distinctive character should be established, but with clear reference to other local areas to help maintain the character of the wider area.

N4 Green infrastructure, vegetation and habitat:

The design of all new development must be based on an appraisal that identifies existing vegetation and habitat on the site and its surroundings and assesses the advantages and disadvantages of retention (see A3.4). New development should establish and be built around a landscape framework that consolidates and integrates existing and proposed green features to complement or extend the wider green infrastructure.

B1.5 Density:

Within the range set by policy, the density of proposed development should be an appropriate response to the character of the area, the location of the site within the settlement, the proximity and accessibility of facilities and services, acceptable levels of parking. Applicants must demonstrate that all these factors have been taken into account to justify the proposed density. Density as expressed in the application material must be stated in dwellings per hectare (net dwelling density as defined in PPS3) and, for full and reserved matters applications, in floor area (square metres) per hectare.

B1.6 Off Street Parking:

Off Street Parking must be integrated within the overall scheme so that it does not dominate the street or shared private area. Front parking, either individual or shared, must allow sufficient space for inclusive access to the building with a

dedicated footway between parked cars. Front car parking within the curtilage of a dwelling should be set back to maintain clear footways and discourage inappropriate kerb parking. The visual impact of front parking, either individual or shared, should be reduced by providing front boundary screening such as low walls/railings, hedges and trees.

B2.4 Relationship of the building to the public realm:

The frontage of buildings in all new development must fulfil its role as the public front, appropriate to its location within the neighbourhood, street hierarchy and individual street.

B2.5 Private and shared private outdoor space:

Private and shared private outdoor amenity space for active use must be secure and endeavour to have sufficient sunlight. Shared private space should be located where it is well overlooked both by people moving through or past the space and from windows. Undefined or unenclosed space around the outside of multiple occupancy buildings is not acceptable as shared outdoor space for active use. Consider inclusion of space for the cultivation of vegetables and fruit. All buildings should include level thresholds to gardens that can be used by all.

B3.1 Overall building form:

The overall form and detailed design of buildings should be appropriate to their location within their neighbourhood and character area as well as within the street and block or plot series. The design of buildings should enhance the character of the surrounding area.

Other relevant sections include N5, N5.5, S1 (all), S2.4, S2.5, B1, B1.2, B1.3, and B1.4.

Car Parking Standards:

The latest car parking standards adopted in June 2011 specify a minimum car parking provision for residential development of:

- 1 or 2 bedrooms 1 parking space per dwelling.
- 3 or 4 bedrooms 2 parking spaces per dwelling.

National Policies:

PPS1 Delivering Sustainable Development:

States that sustainable development is the core principle underpinning planning, and that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by amongst other things:

- making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life;
- ensure that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs, and key services to all members of the community.

It further states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area should not be accepted.

PPS 3 Housing reinforces the message from PPS 1. It states that development should create or enhance a distinctive character that relates well to and complements neighbouring buildings and the local area in terms of scale, density, layout and access. It also emphasizes the need for the efficient use of land and the re-use of vacant or derelict land and buildings in sustainable locations. In relation to affordable housing PPS3 states, within its key housing goal, that the Government seeks to achieve a wide choice of high quality homes both affordable and market housing to address the requirements of the community. It further seeks to widen opportunities for home ownership and ensure high quality housing for those who cannot afford market housing, in particular those who are vulnerable or in need. It goes on to say that the planning system should deliver amongst other things a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety households in areas both urban and rural.

PPS 4 Planning for Sustainable and Economic Growth:

States that the Government's overarching objective is sustainable economic growth, and plans to build prosperous communities by improving the economic performance of cities, towns, regions, sub-regions and local areas, both rural and urban.

PPG 13 Transport strongly advocates sustainable development patterns, facilities accessible by a range of transport modes, a reduction in the need to travel and the length and frequency of car journey, and reduced car parking.

Publicity

The application was advertised on site and adjoining occupiers consulted. Two letters of objection have been received, one from a local resident and one from Treeton Parish Council. The local resident raises the following points:

- (i) Proximity of proposed dwelling to habitable room window of number 85 Wood Lane.
- (ii) Loss of daylight/sunlight.

The Parish Council raises the following points:-

- (i) On Jones Homes original application an area was set aside for retail development. Subsequent applications have altered the location for the designation to allow residential development.
- (ii) Applicants are indicating that no one is interested in the site but the Parish Council are aware that a third party expressed an interest in the land to the applicants but they would not consider them. The party involved has now established a business elsewhere in Treeton.
- (iii) There are currently very few retail outlets in the village: one shop, a pizza parlour and a chemist. The post office is vacant due to the death of the Postmaster.

Consultations

Ecology Officer:

No objections subject to a condition for biodiversity improvement.

Transportation Unit:

No objections subject to appropriate conditions.

Neighbourhoods (Environmental Health):

No objections subject to conditions.

Yorkshire Water:

No objections subject to details of foul and surface water drainage details.

The Urban Design Officer

This scheme is very difficult to score in isolation as the land predetermines the layout and its relation with existing streets. Therefore design options are limited and this is taken into account. It has not therefore been possible to give a precise mark under the Building for Life score criteria, but it is unlikely to gain more than 10/20. The following issues are identified:

The scheme suffers from a rigid use of house types which aren't specifically designed for the scheme or well adapted to suit it. The character and architectural quality of housing suffers because of this.

The scheme will achieve nothing more than the minimum standards required when it comes to 'Design and Construction'. This counts against the score in terms of Building for life and this section doesn't come out well.

Properties have been squeezed into the Wood Lane section and as a result there are a few issues here. The level of parking to the front of properties which will dominate the streetscene. A lack of boundary which clearly defines public and private realm. A streetscene void of adequate landscaping to soften the scheme and add richness.

The shared access point in the middle of the proposed terraced units need a lockable gate to the front, they need to be well considered so as not to create dark alleys which can easily be accessed.

Plots 12 & 13 have an uneasy relationship with the front garden of plot 12 coming so far out in front of plot 13.

Plots 7 and 8 have not been designed with the access path in mind.

Plot 13 does not enliven Pitt Lane.

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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

The site of application is allocated for Residential purposes in the UDP. However, an area of land close by that is allocated for Retail (Local Centre) purposes on the UDP has previously been developed by the applicant for residential purposes and the current application site is the last piece of land within this residential allocation available to

provide the allocated community/ commercial uses. There is consequently an issue with the principle of the development and the main issues for consideration are:

- (i) The principle of the development.
- (ii) The scale and design of the proposal.
- (iii) The layout and density of the development.
- (iv) Highway safety matters.

(i) The principle of the development:

The original planning permission for the overall site was subject to a Section 106 Legal Agreement for the setting aside of approximately 2 acres of land for the provision of community/shopping/recreational use, and a requirement that for a period of ten years the owners should make their best endeavours to negotiate a lease or sale of the land for that purpose.

The applicants contend that they have made their best endeavours to lease or sell the site as such, and indicated that marketing exercises have been carried out over a 14 year period, including one in 2010, which noted that there had recently been approximately 300 new house completions in Treeton. In fact the applicant's site alone comprises 377 dwellings which are now completed. Additionally 24 flats were recently built by the applicants adjacent the site, and planning permission was granted in 2009 for 95 further houses nearby off Rother Crescent, which are now well under construction.

The most recent marketing exercise carried out in 2011 is similar in nature but includes a letter correcting the errors in the previous one. Finally an advertisement board has been placed on the site.

None of the endeavours have produced any interest other than the existing owners of the site, the Co-op, who gained planning permission on the site for a small supermarket. This permission has now expired, and the Co-op have indicated in writing that the site is not viable, due to the population in Treeton, lack of passing trade due to the opening of the new spine road, and the existence of two convenience stores in the village.

The applicants further contend that the Unitary Development Plan allocation for community facilities is within housing allocation H8, whilst the application site is within H46, and consequently, the land is allocated for residential purposes. This is not the case, the allocation was indicative for the provision within the main new residential allocations in Treeton Village, and the two sites referred to are in juxtaposition. They are only given different references as one is identified in the UDP as an existing housing site, and one as a proposed housing site. The current shopping provision within Treeton Village primarily consists of a small supermarket, two hot food takeaways, a chemists shop, and a newsagent's shop. With the exception of the newsagent's shop, all the uses are at the other end of the village near the railway bridge in Station Road. There is also a doctor's surgery and Working Men's Club on Arundel Street. The Post Office on Front Street closed approximately 2 years ago.

It is considered that the loss of land for future shopping facilities is quite clearly in conflict with the advice in PPS1 Delivering Sustainable Development, PPS4 Planning for Sustainable Economic Growth, and PPG13 Transport, all of which advocate and strongly support accessibly located facilities in sustainable development patterns. This guidance is reflected in Policy RET6 Local Shopping Provision, of the UDP. Indeed, the

recommendation as part of the Local Development Framework is that the application site be re-allocated to retail, with the conclusion that: "Treeton has grown considerably in recent years and now lacks a village centre. There is a perceived need for a small local supermarket to serve the village and this site would be the best location. The site originally allocated for a small retail centre has now been developed for housing."

The proposal would result in the loss of the last remaining potential local centre site in the immediate vicinity of the latest house building. It is also in proximity to the local junior and infant's school entrance, and would offer the opportunity of linked trips. It is therefore considered that the proposals would be in conflict with Policy RET 6 Local Shopping Provision of The Unitary Development Plan and advice in PPS1 Delivering Sustainable Development, PPS 4 Planning for Sustainable Economic Growth, and PPG 13 Transport.

(ii) The scale and design of the development:

The proposal is for 13 two storey houses in an area with a mix of house types, with older terraced properties on the Wood Lane frontage, and newer properties to the west of the site comprising two and three storey houses and flats, which are more contemporary in design and materials. The proposed plots 8 to 11 along the Wood Lane frontage are a terrace of houses which incorporate simpler fenestrations, to better reflect the vernacular style of the existing older terraces opposite and to the north of the site. Plots 1 to 7 are of a more modern design being semi-detached and detached house which would form a transition between the old and the new styles in the area. With regard to the dwellings off Falconer Way, the two large detached dwellings would be seen most prominently in relation to the adjacent modern flats recently built and would be in keeping with those visually in terms of scale.

It is considered that the proposals as submitted would by way of their scale and design be appropriate for the area, and would have no adverse effect on visual amenity, thereby being in accordance with Policy ENV3.1 'Development and the Environment' of the Unitary Development Plan and guidance in PPS1 Delivering Sustainable Development and PPS3 Housing.

(iii) The layout and density of the development:

The development is for 13 No. 2, 3 and 4 bedroom family dwellings, in an existing residential area, on a bus route and close to other facilities such as schools, at a density of approximately 35 dwellings per hectare. This is considered to be acceptable in density terms in this location.

The layout has the appropriate amount of private open space provision within the dwelling curtilages. Additionally, the orientation and spacing of the dwellings would generally be within the parameters normally required in new development of this nature. However, the side elevation to plot 11 would be located approximately 3.5m away from a ground floor habitable room window in the side elevation of a single storey side extension to number 85 Wood Lane, and would have an overbearing and overshadowing effect on that window. The footpath link between plots 7 and 8 would be approximately 3.9m wide and consequently afford no opportunity for landscaping. Finally, of the 11 plots fronting Wood Lane, 8 have car parking in front of the houses, and would present a vista of hard surfacing with cars parked in the street scene, and minimal opportunity to soften the development with meaningful planting or boundary treatment.

The proposals would therefore result in overshadowing of an existing property, and a poor form of layout with excessive hard surfacing and no meaningful soft landscaping provision. As such, the development would be detrimental to the residential amenities of existing occupiers, future users of the footpath link, and the visual amenities of the streetscene in general. The proposals therefore fail to take the opportunities available for improving the character of the area, and are thereby contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan, guidance set out in the South Yorkshire Residential Design Guide, and national planning guidance in PPS1 'Delivering Sustainable Development'.

(iv) Highway safety:

The submitted plans indicate fronting the site: a pedestrian footway, selective carriageway widening, and traffic calming measures. In addition, satisfactory parking provision would be made for the proposed dwellings. It is therefore considered that in this respect the proposals would be acceptable in respect of highway safety.

Conclusion

The site of application is allocated for residential purposes on the UDP. However, an area of land close by that is allocated for Retail (Local Centre) purposes on the UDP has previously been developed by the applicant for residential purposes and the current application site is the last piece of land within this residential allocation available to provide the allocated community/ commercial uses. It is not considered that sufficient information has been demonstrated to justify the loss of this potential local shopping facility and, as such, the development would be contrary to Policy RET6 Local Retail Provision of the Unitary Development Plan, guidance set out in the South Yorkshire Residential Design Guide, and to advice in PPS1 Delivering Sustainable Development, PPS4 Planning for Sustainable Economic Growth, and PPG 13 Transport.

In addition, elements of the development would appear overbearing in relation to one property and result in a generally poor form of development to the detriment of residential and visual amenity contrary to Policies ENV3.1 'Development and the Environment', and HG5 'The Residential Environment' of the Unitary Development Plan and national planning guidance in PPS1 'Delivering Sustainable Development'.

In view of the above it is recommended that planning permission be refused.

RB2011/1110

Continuation of use of hot food takeaway (Use Class A5) with variation to Condition 03 (opening hours) imposed by RB2010/1446 at 38 High Street, Swallownest for Mr. A. Zahidli.

RECOMMENDATION: Grant Conditionally

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

Having regard to the Development Plan and all other relevant material considerations as set out below:

Development Plan:

Unitary Development Plan.

Policy HG1 'Existing Housing Areas' states:

"The Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which:

- (i) have no adverse effect on the character of the area or on residential amenity,
- (ii) are in keeping with the character of the area in terms of scale, layout and intensity of use,
- (iii) make adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development, or
- (iv) are ancillary to the residential nature and function of the area and which also satisfy the above requirements."

Policy ENV3.7 Control of Pollution:

"The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport. Planning permission will not be granted for new development which:

- (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided by incorporating preventative or mitigating measures at the time the development takes place, or
- (ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.

The Council will employ all its available powers and where appropriate will co-operate with and support other agencies, to seek a reduction in existing levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti. Where concerns

arise, the Council will in appropriate cases monitor or require the monitoring of levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti, in furtherance of this Policy objective.”

Other material planning considerations:

PPG24 ‘Planning and Noise’ states “Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated.”

For the following reasons:

The opening hours hereby proposed are considered to be acceptable in this instance. It is considered that opening 1 hour later than the opening hours approved under RB2010/1446 would not result in any adverse impact on the residential amenity of neighbouring residents by way of noise and general disturbance at unsocial hours. The proposed opening hours are therefore considered to be in compliance with the requirements outlined within UDP Policies HG1 ‘Existing Housing Areas’ and ENV3.7 ‘Control of Pollution’.

The forgoing statement is a summary of the main considerations leading to the decision to approve this application. More detailed information may be obtained from the Planning Officer’s report; the application case files and associated documents.

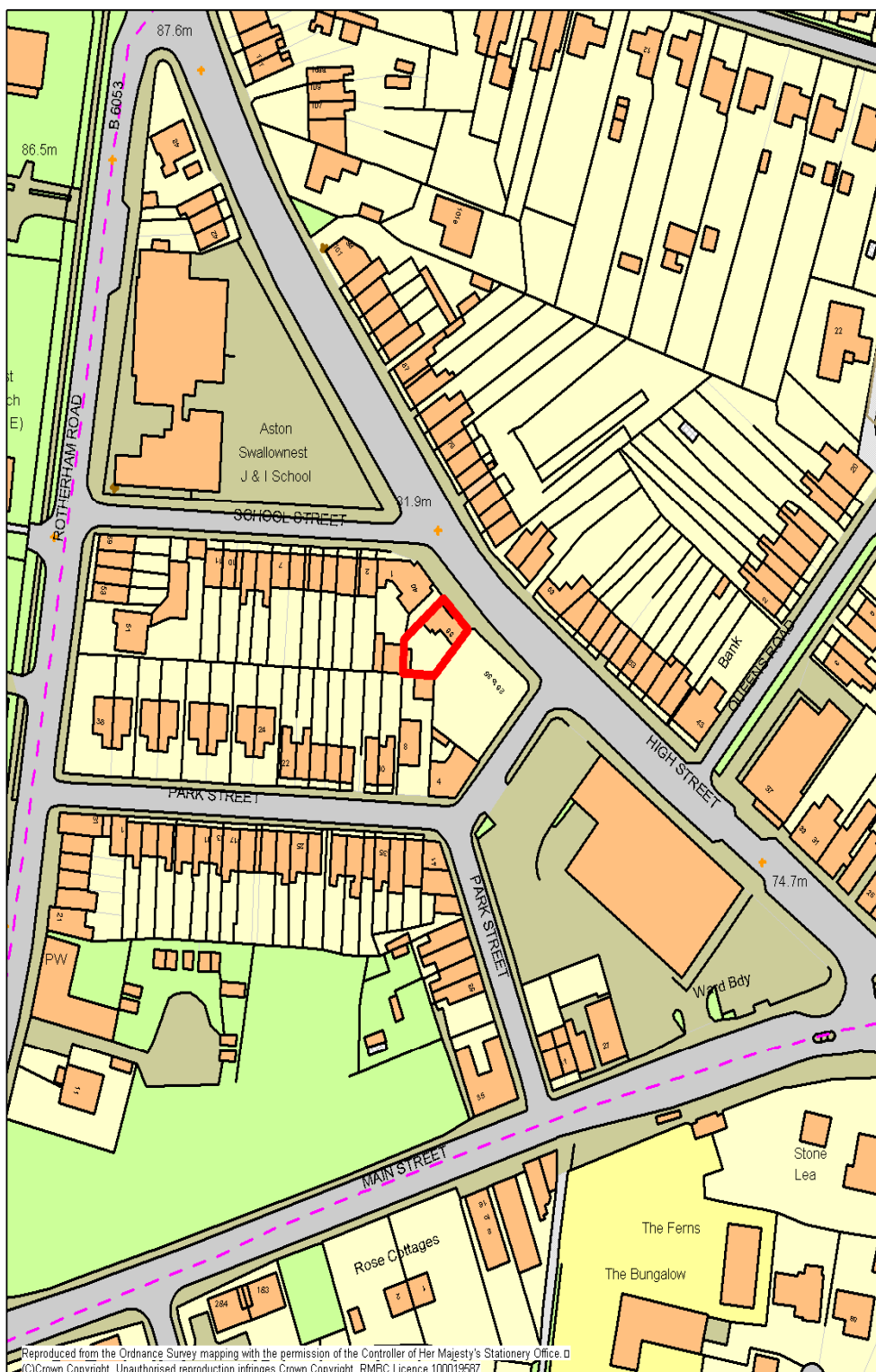
Conditions & Reasons Imposed:

1.

The use hereby permitted shall only be open to customers or for deliveries between the hours of 08:00 to 23:30 hours Mondays to Sundays.

Reason

In the interest of neighbouring amenity and in accordance with Policies HG1 ‘Existing Housing Areas’ and ENV3.7 ‘Control of Pollution’ of the Rotherham UDP.



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 Rawmarsh Road □
 Rotherham S60 1TD □
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Background

There has been much planning history relating to this site, the most recent and relevant of which is as follows:

RB2006/1599 - Change of use to sandwich shop (A1) and café (A3) – GRANTED CONDITIONALLY

RB2008/0977 - Conversion and extension of premises to form separate A1 retail unit and A3 café - GRANTED CONDITIONALLY

RB2010/1446 - Retrospective application for change of use from café (Use Class A3) to hot food takeaway (Use Class A5) - GRANTED CONDITIONALLY. Condition 3 states:

03

The use hereby permitted shall only be open to customers or for deliveries between the hours of 08:00 to 22:30 hours Mondays to Sundays.

RB2011/0470 - Continuation of use with variation to Condition 03 (opening hours) imposed by RB2010/1446 to allow opening hours Monday to Thursday and Sunday 0800 to 2400 and Friday and Saturday 0800 to 0030 – REFUSED for the following reason:

01

The Council considers the proposed extension of opening hours would be detrimental to the occupiers of nearby residential properties by way of noise, and general disturbance at unsocial hours and as such is contrary to Policy ENV3.7 'Control of Pollution' and PPG24 'Planning and Noise'.

RB2011/0791-Continuation of use (retrospective application for change of use from café (Use Class A3) to hot food takeaway (Use Class A5) with variation to Condition 03 (opening hours) imposed by RB2010/1446 – REFUSED, for the same reason as RB2011/0470.

Site Description & Location

The site of application is a detached property located on the High Street, Swallownest. The property dates from the Victorian period, although modernisation such as pebble dashing has eroded its original character.

No off street parking is provided with the property and on street parking is available to the front. To the south eastern side of the unit lies an outdoor conservatory showroom, whilst a second hand TV shop is located to the north of the unit. Residential properties are located across the High Street and behind No.38.

Proposal

The applicant seeks permission to vary condition 3 of planning application RB2010/1446 to allow the takeaway to open 08:00 to 23:30 Monday to Sunday as opposed to 08:00 to 22:30 hours.

Development Plan Allocation and Policy

The site is allocated residential in the Unitary Development Plan:

Policy HG1 'Existing Housing Areas' states:

"The Council will ensure that predominantly residential areas are retained primarily for residential use by permitting only those proposals which:

- (i) have no adverse effect on the character of the area or on residential amenity,
- (ii) are in keeping with the character of the area in terms of scale, layout and intensity of use,
- (iii) make adequate arrangements for the parking and manoeuvring of vehicles associated with the proposed development, or
- (iv) are ancillary to the residential nature and function of the area and which also satisfy the above requirements."

Policy ENV3.7 Control of Pollution:

"The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport. Planning permission will not be granted for new development which:

- (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided by incorporating preventative or mitigating measures at the time the development takes place, or
- (ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.

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

Other Material Considerations

PPG24 'Planning and Noise' states "Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated."

Publicity

The application was advertised by way of neighbour notification letter and site notice. No letters of representation have been received.

Consultations

Transportation Unit: No objections

Director of Housing and Neighbourhoods (Environmental Health): Consider the opening hours excessive and regard the proposal detrimental to neighbouring amenity.

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 the provisions of the development plan, so far as material to the application, and to any other material considerations - S.70 (2) TCPA 1990.

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 principle of the use of the unit as a takeaway was established under the granting of planning permission for the takeaway in 2010 and cannot be revisited in this application. At the time of the granting of that permission, a condition of the approval was that the premises shall only be open between the hours of 08:00hrs - 22:30 hrs Mondays to Sundays. This was at the request of the applicant.

This application is to vary this condition to increase these opening hours by one hour every day and the main consideration in whether to allow an increase in opening hours is the impact on residential amenity, with regard to noise nuisance and general disturbance. Policy ENV3.7 states that "planning permission will not be granted for development which gives rise to noise...beyond acceptable standards." It is noted that properties across the road and to the rear are residential.

The increase in opening hours by one hour in the evening is considered acceptable and would not create excessive noise or disturbance to neighbours. The 23:30 hours of opening is in accordance with other takeaways in the locality and will not be unreasonable hours of operation.

Whilst it is noted that the Council's Environmental Health Unit consider the hours of opening excessive, the Council has received no objections from the neighbour who previously objected. In addition 23:30 hours is not an unreasonable closing time for a takeaway and allows the applicant the opportunity to take advantage of late night trade in the locality, whilst minimising noise and disturbance to neighbours.

It is therefore considered that the proposal would not result in a significant increase in noise and disturbance and therefore would not be detrimental to residential amenity or contrary to Policies HG1 'Existing Housing Areas' or ENV3.7 'Control of Pollution' of the UDP or to advice in PPG24 'Planning and Noise'.

Conclusion

The opening hours hereby proposed are considered to be acceptable in this instance. It is considered that opening 1 hour later than the opening hours approved under RB2010/1446 would not result in any adverse impact on the residential amenity of neighbouring residents by way of noise and general disturbance at unsocial hours. The proposed opening hours are therefore considered to be in compliance with the requirements outlined within UDP Policies HG1 'Existing Housing Areas' and ENV3.7 'Control of Pollution' and to guidance in PPG24 'Planning and Noise'.