

Public Document Pack



MEETING:	Planning Regulatory Board
DATE:	Tuesday, 23 February 2016
TIME:	2.00 pm
VENUE:	Council Chamber, Town Hall, Barnsley

AGENDA

SITE VISITS:

1. Site visits 2015/0891 and 2015/1302

Plan Number	Site	Approx Time of Arrival
2015/0891	Residential development with associated public open space, landscaping and link road. (2013/0280 – Reserved Matters) at land to the south east of Dearne Hall Road and 1 and 3 Claycliffe Road, Low Barugh.	11.25
2015/1302	Residential development – erection of 43 no. dwellings with associated works at former Highfield Grange Care Home, Blythe Street, Wombwell	12.00

The remainder of the agenda will be considered at 2.00 p.m. in the Council Chamber

2. Declarations of Interest

To receive any declarations of pecuniary or non-pecuniary interest from Members in respect of the under mentioned planning application/s which is/are subject of a site visit.

Local Members are invited to attend in respect of those visits within their ward.

MEETING:

3. Minutes (*Pages 3 - 6*)

To receive the minutes of the meeting held on xx

4. Town and Country Planning Act 1990 - Part III Applications (*Pages 7 - 52*)

The Head of Planning and Building Control will submit a report on applications received for consideration.

5. Boulder Bridge Report (*Pages 53 - 76*)

6. Oughtibridge Mills (*Pages 77 - 84*)

7. Planning Enforcement Policy (Cab.13.1.2016/13) (Pages 85 - 96)

To: Chair and Members of Planning Regulatory Board:-

Councillors D. Birkinshaw (Chair), G. Carr, Cherryholme, Coates, M. Dyson, Franklin, Gollick, Griffin, Grundy, Hampson, Hand-Davis, Hayward, Higginbottom, Leech, Makinson, Markham, Mathers (Mayor), Mitchell, Morgan, Noble, Richardson, Riggs, Spence, Stowe, Unsworth and R. Wraith

Matt Gladstone, Executive Director Place
David Shepherd, Service Director Economic Regeneration
Paul Castle, Service Director Environment and Transport
Joe Jenkinson, Head of Planning and Building Control
Matthew Smith, Group Leader, Development Control
Steve Kirkham, Planning Officer Group Leader (Inner Area)
Jason Field, Interim Senior Lawyer (Planning)

Parish Councils

Please contact Elizabeth Barnard on (01226) 773420 or email governance@barnsley.gov.uk

Monday, 15 February 2016

MEETING:	Planning Regulatory Board
DATE:	Tuesday, 26 January 2016
TIME:	2.00 pm
VENUE:	Council Chamber, Town Hall, Barnsley

MINUTES

Present

Councillors D. Birkinshaw (Chair), G. Carr, Cherryholme, Coates, Franklin, Gollick, Grundy, Hampson, Hayward, Leech, Makinson, Mathers (Mayor), Mitchell, Morgan, Noble, Richardson, Riggs, Spence, Stowe, Unsworth and R. Wraith

In attendance at site visit

Councillors D. Birkinshaw, G. Carr, Cherryholme, Franklin, Hayward, Spence, Stowe and R. Wraith

40. Declarations of Interest

Councillor Stowe declared a non-pecuniary interest in **Planning Application 2013/0233** - Extraction of coal ash and subsequent restoration of the land - Hill Street, Elsecar, Barnsley, South Yorkshire, S74 8EN as he is a local ward member.

Councillor Hayward declared a non-pecuniary interest in **Planning Application 2015/1070** - Residential development of 278 dwellings with public open space and landscaping - Land off Summerdale Drive and Carrs Lane, Cudworth, Barnsley as he is a local ward member.

41. Minutes

The minutes of the meeting held on 22nd December 2015 were taken as read and signed by the Chair as a correct record.

42. Town and Country Planning Act 1990 - Part III Applications - Speakers/Site Visits

Planning Application 2013/0233 Extraction of coal ash and subsequent restoration of the land - Hill Street, Elsecar, Barnsley, South Yorkshire, S74 8EN

Miss June M. Backhouse addressed the Board and spoke against the officer recommendation to approve the application.

Ms Linda Trollop addressed the Board and spoke in favour of the officer recommendation to approve the application.

RESOLVED that the application be granted, in accordance with officer recommendation and subject to additional conditions regarding site security details and operating hours to be reduced to no weekend working.

Planning Application 2015/1070 Residential development of 278 dwellings with public open space and landscaping - Land off Summerdale Drive and Carrs Lane, Cudworth, Barnsley

Mr D. Horner addressed the Board and spoke against the officer recommendation to approve the application.

Mr Paul Butler addressed the Board and spoke in favour of the officer recommendation to approve the application.

RESOLVED that the application be granted in accordance with the officer recommendation, subject to completion of S106 Agreement (Education, Public Open Space, Affordable Housing and a Travel Plan) and an additional requirement in condition 7 relating to safer routes to school signage.

In respect of affordable housing, the recommendation is to also authorise officers to instruct the District Valuation Office to undertake an independent viability appraisal of the scheme in order to ascertain the level of the affordable housing commuted sum. Once known, a further report will be presented to members relating to the level of the affordable housing contribution. Should the applicant also submit additional details to satisfy the recommended conditions prior to the further report being considered by members, this report would also summarise any minor changes arising as a result (e.g. updated wording of planning conditions/minor changes to internal layout).

43. Town and Country Planning Act 1990 - Part III Applications

Planning Application 2015/1277 Erection of 32 no. dwellings and access road (Outline)- Former Longcar Conference Centre, Longcar Lane, Barnsley, S70 6BB

RESOLVED that the application be approved as per recommendation. Members were keen to ensure that four bedroomed houses are provided on site on an Affordable Basis.

Planning Application 2015/1460 Variation of condition 2 of app 2014/0570 (Increase height of building by two floors and rearrange internal layout to provide 27 additional apartments and residents gym and associated external alterations) to allow removal of balconies from all apartments - Land at Heelis Street, John Street, Burleigh Street, Barnsley, S70 1LW

RESOLVED that the application be approved as per recommendation, subject to completion of a section 106 agreement.

It was noted that 1 appeal was decided in December 2015: Use of natural pond for public fishing and erection of single storey café/shop building with car park at Willow Farm, Everill Gate Lane, Broomhill, Barnsley. The appeal was dismissed. Since 1st April 2015, 15 appeals have been decided, 13 of which (87%) have been dismissed and 2 of which (13%) have been allowed.

Chair

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Item 4

Report Précis

Report of the Head of Planning and Building Control to the Planning Regulatory Board

Date: 23/02/2016

Subject

Applications under Town and Country Planning Legislation.

Purpose of Report

This report presents for decision planning, listed building, advertisement, Council development applications and also proposals for works to or felling of trees covered by a Preservation Order and miscellaneous items.

Access for the Disabled Implications

Where there are any such implications they will be referred to within the individual report.

Financial Implications

None

Crime and Disorder Implications

Where there are any such implications they will be referred to within the individual reports.

Human Rights Act

The Council has considered the general implications of the Human Rights Act in this agenda report.

Representations

Where representations are received in respect of an application, a summary of those representations is provided in the application report which reflects the key points that have been expressed regarding the proposal.

Members are reminded that they have access to all documentation relating to the application, including the full text of any representations and any correspondence which has occurred between the Council and the applicant or any agent of the applicant.

Recommendation(s)

That the applications be determined in accordance with the recommendations set out in the main report which is attached. Full report attached for public and press copy (unless Confidential item).

Background Papers

These are contained within the application files listed in the following schedule of planning applications. They are available for inspection at the Civic Hall, Eldon Street, Barnsley, S70 2JL.

INDEX

2015/0891 Approval**Pages 9 - 30**

Residential development with associated public open space, landscaping and link road.
(2013/0280 - Reserved Matters)

Land to the south east of Dearne Hall Road & 1 and 3 Claycliffe Road, Barnsley

2015/1302 Approval**Pages 31 - 43**

Residential development of 43 dwellings with associated works

Former Highfield Grange Care Home, Blythe Street, Wombwell, Barnsley, S73 8LH

2015/1163 Approval**Pages 44 - 51**

Erection of 7 bungalows

Land adjacent 30 Rotherham Road, Great Houghton, Barnsley, S72 0DE

Planning Appeals**Page 52**

Ref 2015/0891

Applicant: Commercial Estates Projects and Hall Land Management

Description: Residential development with associated public open space, landscaping and link road (outline)

Site Address: Land to the south east of Dearne Hall Road & 1 and 3 Claycliffe Road, Barnsley

Approximately 54 individual letters of objection have been received from local residents and a petition containing 11 signatures. In addition local residents have set up an action group to oppose the development, 'BRAND' (Barugh Residents Against New Development).

Site Description

The site encompasses approximately 10ha of land located to the east of Dearne Hall Road (B6428) in Low Barugh.

The site predominately comprises agricultural fields, which infill an area positioned between a range of different uses which includes existing housing, a pub (Millers Arms), Barugh Methodist Church, Claycliffe industrial estate, an electricity substation and the Barnsley to Darton railway line.

The site also includes two existing dwellings, Nos 1 and 3 Claycliffe Lane. These are part of a terrace containing ten existing dwellings. Other housing is located immediately next to the west and the south of the site on Dearne Hall Road, Dearne Hall Fold and Barnsley Road. A significant number of these properties directly overlook the site.

Claycliffe Industrial Estate and the substation are located on the other side to the east and south east on a level that is above the site. Two pylon routes pass through the site in opposing diagonal directions to the North West and south west with some of the pylon structures located within the site. Located within the site near to the eastern boundary is an area of marshland that contains two ponds, one of which has been identified to contain a colony of Great Crested Newts.

Levels on the site vary gradually across the large expanses of the site from 55m at the northern boundary opposite the Millers Arms pub rising to 72m at the southern boundary with Claycliffe Road. Large areas of the site are open apart from a row of mature poplar trees in the northern area of the site.

Proposed Development

The application follows on from the approval of the outline application under reference number 2013/0280. The matters reserved for this application are scale, appearance, siting and landscaping.

The proposal is for 170 no. 2 storey dwellings, consisting of detached, semi-detached and townhouses. The roundabout and access points onto Claycliffe Road and Dearne Hall Road have been approved but the internal road layout and parking provision is for consideration.

In addition to the above, a detailed design has been submitted for the area of open space to the North East of the site which includes drainage basins, ecology ponds and formal play areas.

History

B/76/2070/DT – Residential development (outline) refused 02/09/1976

B/86/1414/DT: Residential development (outline) and formation of vehicular access – Refused 27/02/1987

B/87/0399/DT: Temporary siting of a mobile home – approved 10/04/1987 (expired 30/04/1995)

B/92/0133/DT: Outline application for residential development – Refused 02/04/1992 for the following reasons:-

1. Housing development was contrary to the old Barnsley Urban Area Local Plan (Urban Land to Remain Undeveloped)
2. An adequate housing land supply existed within the Borough
3. The proposal was premature pending the preparation and adoption of the UDP
4. The increase in traffic movements was considered to have an unsatisfactory impact on Dearne Hall Road and the junction with Barnsley Road, to the detriment of highway safety.

2013/0280: Residential development with associated public open space, landscaping and link road (outline) - approved

Policy Context

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has produced a Consultation Draft of the Development Sites & Places Development Plan Document (DSAP), which shows possible allocations up to 2026 and associated policies. The document is a material consideration but the weight afforded to it is limited by the fact it is at an early stage in its preparation.

Local Development Framework Core Strategy

CSP2 'Sustainable Construction'
CSP3 'Sustainable Drainage Systems'
CSP4 'Flood Risk'
CSP5 'Including Renewable Energy in Developments'
CSP8 'The Location of Growth'
CSP9 'The Number of New Homes to be Built'
CSP10 'The Distribution of New Homes'
CSP14 'Housing Mix and Efficient Use of Land'
CSP15 'Affordable Housing'
CSP26 'New Development and Highway Improvement'
CSP29 'Design'
CSP33 'Green Infrastructure'

CSP35 'Green Space'
CSP36 'Biodiversity and Geodiversity'
CSP39 'Contaminated and Unstable Land'
CSP40 'Pollution Control and Protection'
CSP42 'Infrastructure and Planning Obligations'

Saved UDP Policies

UDP notation: Urban Land to Remain Undeveloped

Policies GS11/BA11 state that 'In areas shown as Urban Land to Remain Undeveloped on the proposals maps existing uses will normally remain during the plan period and development will be restricted to that necessary for the operation of existing uses. Otherwise planning permission for the permanent development will only be granted following a review of the UDP which proposes that development on the land in question'.

SPD's

- Designing New Residential Development
- Parking
- Open Space Provision on New Housing Developments

Planning Advice Note's

- 30 -Sustainable Location of Housing Sites
- 33 -Financial Contributions to School Places

Other

South Yorkshire Residential Design Guide

Emerging Development Sites and Places DPD

Proposed allocation: Phase 1 Housing Proposal (BAR32)

- Policy H1 'Uses on Allocated Housing Sites'
- Policy H4 'Phased Release of Allocated Housing Land'
- SD1 Presumption in favour of Sustainable Development
- GD1 General Development Policy
- GI1 Canals – Safeguarded Routes

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

32 – ‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’

49 – ‘Housing applications should be considered in the context of the presumption in favour of sustainable development.

58 & 60 – Design considerations

123 – Noise

179 – Viability – The costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure, contributions, or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

Consultations

Air Quality Officer – No comments but no objections to outline

Affordable Housing Officer – 10% affordable acceptable

Biodiversity Officer – No objections, subject to conditions

Coal Authority – No objections, subject to conditions

Contaminated Land – No comments but no objections, subject to conditions at outline

Drainage – No objections, subject to conditions

Education – Raise concerns on the grounds that Barugh Green Primary School is operating at capacity at present and that the development would cause capacity issues in the other existing primary schools within a 2m radius

Environment Agency – No objections, subject to conditions

Natural England – No objections

NHS Barnsley – No comments but no objections to outline

Highways – No objections, subject to conditions

Regulatory Services – No objections, subject to conditions

Tree Officer – No objections, subject to conditions

SYAS – No comments but no objections subject to conditions to outline

SYMAS – No objections subject to conditions

SYPTTE – No objections

Yorkshire Water – No objections subject to conditions

Representations

The application was advertised by individual notification letters and by press and site notices. Approximately 54 individual letters of objection have been received from local residents as well as a petition containing 11 signatures.

In addition local residents have set up an action group to oppose the development 'BRAND' (Barugh Residents Against New Development) who have provided responses to the individual reports submitted as part of the application.

Residents were further notified on 11th January following the amendment to application and given the opportunity to comment further specifically on the changes that were made. Objections received are summarised under the following themes:-

Sustainability

- It is asserted that the nearest primary school (Barugh Green Primary) is full to capacity which should preclude any further housing development in the local area.
- Concerns are also raised about the distance to Barugh Green Primary School (in excess of 800m) and about the safety of the route to the school based on poor surfacing condition/width of existing footpaths in the area which again shows that the site is unsuitable for housing.
- Concerns that the area is inadequately served by public transport.

Harm to residential amenity/noise

- Specific concerns about noise are raised in relation to the electricity substation, the industrial estate from existing operators including the Weldgrip factory and passing trains.
- It is asserted that the development would provide a poor standard of amenity for residents due to being affected by noise, light and air quality pollution including having non-opening windows.
- Concerns are raised about the impact of the development on the health of existing residents.
- Concerns are raised about the impact on the living conditions of existing properties (noise, loss of privacy, loss of sunlight, enjoyment of home/garden)
- Proposed ponds and increased accessibility of train line a concern for children's safety.
- Local businesses could be affected if new neighbours complain regarding noise.

Harm to biodiversity

- Concerns that the development directly harm biodiversity including great crested newts, bats, herons, other birds, amphibians.
- It is asserted that the colony of great crested newts on the site is significant and should be protected at all costs, which would mean not allowing the site to be developed.
- Specific concerns are raised that public access to the areas close to the newt ponds would be a direct threat to their continued existence on the site.

Highway Safety

- Concerns are raised about the traffic impacts of the development and about the amount of congestion that would result due to existing roads in the area being an existing bottleneck.
- Public safety concerns due to the poor condition of existing roads and footpaths to the area (drivers/pedestrians and cyclists).

- Concerns that the proposed new spine road would not help solve existing problems but make them worse by increasing vehicle speeds and result in conflict between residential traffic and that accessing Claycliffe Industrial Estate.
- Concerns that the new roundabout is unsuitable and would increase the risk of accidents.
- Concerns about the disruption caused when the highway works would take place and during the construction of the development.
- Concerns the traffic impacts would be made even worse due the proposals for further development in the area in the future (cumulative impact).

Flood Risk

- It is asserted that the development would increase the risk of flooding for existing properties.
- It is asserted that areas of the site flood at present meaning that the site should not be developed (numerous photos have been submitted showing Dearne Hall Road and parts of the application site under water).
- Concerns with the flood risk assessment and that it is missing local knowledge of the problems.
- Concerns that existing drains are at capacity

Assessment

Principle of development

Planning law is that decisions should be taken in accordance with the Development Plan unless material considerations indicate otherwise.

The current position is that the Development Plan consists of the Local Development Framework Core Strategy and the saved Policies of the Unitary Development Plan.

The National Planning Policy Framework (NPPF) is also a significant material consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision taking this means:-

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

In addition paragraph 49 of the NPPF states that Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a deliverable five year supply of deliverable housing sites, which is a significant and important material planning consideration (as was the case with the North Gawber Colliery appeal case).

The site is designated Urban Land to Remain Undeveloped in the Unitary Development Plan. However, Urban Land to Remain Undeveloped is a misleading term because this designation actually represented land within existing settlements that were classed to having had the potential for development beyond the UDP plan period. The Unitary Development

Plan was originally intended to relate to the period 1986-2001 and therefore the extent it can be relied upon in terms of current development needs is dated. The NPPF also classes policies adopted before 2004 as being out of date and states that due weight should only be given to policies adopted from 2004 onwards according to their degree of consistency with the NPPF.

Current strategic planning in the Borough is set out in the Core Strategy, which was adopted as recently as September 2011. It identifies the site as part of the Urban Barnsley settlement, which is main focus for development in the Borough and to accommodate housing growth over the plan period.

In terms of housing need, the target for the number of new homes to be built in the Urban Barnsley settlement during the plan period is 8366 net new homes, which is significantly more than in any other settlement in the Borough. New site allocations shall be required in order to deliver these targets. UDP Urban Land to Remain Undeveloped/Safeguarded Land sites and particularly those located in the Core Strategy Urban Barnsley settlement are of primary consideration to be new housing land allocations.

The site is proposed to become a phase one housing allocation in the Consultation Draft 2014 of the Borough's Local Plan. However this consideration can only be afforded limited weight at the current stage of the adoption process.

As such the overriding consideration would be the NPPF. The implication of this is that the UDP Urban Land to Remain Undeveloped policy is classed to be out of date meaning that relevant planning applications, such as this, need to be considered in the context of the presumption in favour of sustainable development. This is particular in the context that the Council is currently unable to show a deliverable five year supply of housing sites.

In practice this would mean that planning permission should only be refused if the contents of the application would result in any significant and demonstrable adverse impacts that would outweigh the presumption in favour of sustainable development as is stated in the NPPF.

In any case, the principle of residential development on the site has already been established through the outline application which was granted on 23/01/2014 under application reference number 2013/0280. The application had all matters, with the exception on access, reserved. However, the application did include a proposed land uses plan showing how the site is proposed to be developed in terms of the areas of the site that are proposed to be built upon (5.1ha) and those areas that would be left open, or laid out as public open space (3.6ha).

The means of access for the development was approved at outline state which involved the construction of a new spine road through the site, designed to take traffic off the section of Dearne Hall Road that passes alongside the site. The new road is to fork off the existing Dearne Hall Road (B6428) at the northern boundary, passing through the development before connecting with the existing mini roundabout located at the southern boundary at the junctions of Barnsley Road/Claycliffe Road (A637) and Barugh Lane in a position between the Methodist Church and existing housing. The roundabout is to increase in size and requires the demolition of an existing property, No.1 Claycliffe Road.

The assessment has been carried out in this context and is detailed below with regards to site specific issues:-

Location of the site/sustainability considerations

The location of the site and its sustainability were considered at the outline stage and the points raised are still relevant for this application;

A significant number of the representations make reference to concerns about the amount of development proposed in comparison with the size of the existing Low Barugh settlement, as well as raising concerns about settlement convergence with Barugh Green and Barugh and making assertions that the site is not sustainable.

However, as has already identified the site is classed to be located in the Urban Barnsley settlement as defined by the boundary plans contained in Planning Advice Note 30 'Sustainable Location of Housing Sites'. This consideration has to be afforded considerable weight in sustainable location terms, as was the case in the Mapplewell North Gawber Colliery site appeal case for approximately 400 dwellings, which was allowed by the Secretary of State on a site that was also designated Urban Land to Remain Undeveloped in the UDP.

PAN30 'Sustainable Location of Housing Sites' is also a material consideration in itself, although the extent upon it can be relied upon is now limited following the publication of the NPPF and as it is not part of the statutory development plan for the Borough. The Planning Advice Note contains a checklist to assess if a proposed housing site is in a sustainable location. Applying the checklist to this proposal shows that the site has some sustainable attributes due to its location within Urban Barnsley and the fact that even though it is on the edge of Urban Barnsley it does not project out into the countryside. However, because of its UDP Urban Land to Remain Undeveloped notation, it would not be possible for the site to pass step 2.

With regard to public transport access the situation is more complex due to changing assessment methodologies. Using the Planning Advice Note 30 method the site does not achieve a full score of 10 as the whole site does not lie in the Core Public Transport Network (CPTN) Buffer. As a result it would score 6. However the consultation response from SYPTE gives the site a green rating under the updated Land Use and Transport Integration methodology stating that 'the location of this development complies with public transport related policy on national, regional and local scale' based on the following reasons:-

- The bus stops located to the west of the site along the A637 provide a service frequency of more than 6 buses per hour. This therefore forms part of the South Yorkshire Core Public Transport Network, providing easy connections to local centres, transport interchanges, schools and workplaces.*
- The bus services 93/93a, 95/95a, 96/96a and 97 all service Barnsley Towns Centres and have combined frequency of 9 buses per hour, equating to one bus every 6 and a half minutes. Development in areas with this level of service is highly supported.*

The site would therefore pass step 3 of PAN30 even though it would receive low scoring points for access to services.

If it is accepted that UDP designated Urban Land to Remain Undeveloped in sustainable locations can be considered out of date in terms of the NPPF presumption in favour of sustainable development it would be illogical to then apply step 2b of PAN30 if this is the only negative factor. Additionally it also needs to be acknowledged that PAN30 was originally drafted to incorporate the SYPTE's method of assessing public transport access at that time. This has since been revised and this does critically affect this sites performance when considered against the PAN30 checklist. Taking these factors into account the site is considered to be in a sustainable location.

The issue of timely access to local doctor's surgeries and pharmacies is also a sensitive issue. However, NHS Barnsley have clarified that provision is always based on the local needs of the population and that under the terms of the GP contract the number of GP's has to reflect the number of registered patients so that there would always be adequate provision of GP's and supporting staff. The distance to local doctor's extends beyond the 800m recommended, but as it has been established the site would pass step 3 of the PAN taking into account access to public transport and the consultation response from SYPTTE (which can only be afforded limited weight in any case) and as such this is not a significant enough issue to weigh the case in favour of refusing the application. This point applies equally to accessibility to the school and shops and services also.

Visual amenity

The proposed layout closely reflects the illustrative masterplan which was considered at outline stage. Furthermore, the proportions of the site to be developed and to be utilised as open space remain the same.

The proposals work with the landscape character of the site to enable development to integrate within its setting, responding to cues given by existing landscape in the surrounding areas. The response to the site characteristics and surrounding context has informed the design and layout of development to create an appropriate design.

It is predominantly a perimeter block development addressing the principal streets and open spaces with dwelling types familiar to the surrounding context which are mostly detached and semi-detached houses with some townhouses interspersed. Through the scheme runs a tree lined access road which is fronted by detached or semi-detached dwellings with side drives to reduce impact of cars on the street scene. This sets the character for the scheme. Off the access road are lower tier streets, homezones and lanes.

The character of the proposed new streets is not uniform and varies as part of a hierarchy to create an element of legibility. The layout favours longer streets with continuity of elements to create a stronger sense of integration rather than short blocks which can create a sense of fragmentation and be disorientating.

The proposal is for 170 dwellings, 5 less than the maximum proposed at outline stage. This would achieve a net density of approximately 35 dwellings per hectare on the developable area, which, given the constraints on site would be considered an acceptable density in relation to CSP14 'Housing Mix and Efficient Use of Land'.

All the properties on the site would be 2 stories in height and there would be a housing mix which would create a broad based community and visual interest. There are 7 detached house types proposed, 3 semi-detached house types and 2 styles of terrace/town houses. Materials are predominantly red brick with grey tiled roofs which is compatible with the local vernacular of the surrounding housing stock.

Furthermore, there are 2no. specific house types which have fenestration and design details to both the front and side elevations which would be utilised on corner plots to avoid blank gables and large areas of exposed brickwork within close proximity to the back edge of footpaths and in prominent locations.

There are no single storey properties within the proposed scheme. Whilst it would be considered preferable to have some single storey properties, given the viability issues with the site and the lack of adopted policies requiring single storey properties, it is not something that can be insisted upon or would substantiate a reason for refusal.

With regard to parking arrangements the layout does not appear to be car dominated, parking areas are provided to the front and sides of the properties and their dominance/impact will be softened as a result of soft landscaped front gardens and landscaping within the highway. There are also a mixture of detached and integrated garages to add variety and interest. All of the properties are served with front to rear access which allow for the storage of bins outside of the public domain.

Having full consideration to the design merits of the proposal and the layout of the scheme it is considered that the development would deliver an attractive residential environment which would enhance the existing area. The scale and density of the development is reflective to that of properties within the locality which allows the developments to integrate successfully and promote the regeneration of the area. It is therefore considered that the proposal adheres to the objectives of CSP policies 14, 17, 29 which stress the importance of achieving high quality design.

Residential Amenity

The site is sensitive in terms of whether the development would afford adequate standards of residential amenity for future residents and in terms of whether it would afford sufficient protection to the residents of existing dwellings which overlook the site which, at present is relatively green and open.

The residents of the existing dwellings would undoubtedly suffer a loss of view; however loss of view is not a material planning consideration. As such the Council is only in a position to ensure that the living conditions of existing properties would not be unreasonably impacted via material planning considerations such as loss of privacy, overshadowing and overbearing.

The site does adjoin existing residential properties, fronting Dearne Hall Road and Dearne Hall Fold, running along the North Western boundary. There are a number of properties proposed along this boundary which would either back on to, or be side on to, the neighbouring dwellings. A number of objection letters from the neighbouring residents has cited the proximity of these dwellings as a concern.

However, the required separation distances as set out in SPD 'Designing New Housing Development' have been met and generally exceeded. As shown on the cross sections provided the dwelling proposed to the North West corner of the site would be built on a lower level than the properties fronting Dearne Hall Road and Dearne Hall Fold. The properties immediately to the South of Dearne Hall Fold would be on a similar level but would meet the 21m required and would have a lower eaves and ridge height than the existing properties.

The dwellings proposed to the South West corner of the site would be built on a marginally higher level than the immediately adjacent neighbouring dwellings, however, the separation distances would be approximately 27m to compensate.

It is acknowledged that a number of objections have stated that a landscape/tree buffer between existing and proposed dwellings was included within concept plans of the development and that this has now been omitted. However, these were only concept plans and not approved as part of the outline application. Buffer strips would be impractical as they would result in an area of 'no man's land' which could lead to safety and maintenance problems. Some trees have been included in the rear garden areas of a number of proposed dwellings to act as screening.

As a result of the comments above, the proposed development would not significantly increase overshadowing, lead to overbearing structure or reduce privacy levels to an unreasonable degree, in accordance with SPD 'Designing New Housing Development'

With regards to the residential amenity of the future occupants of the site, the layout generally achieves the separation distances set out in Supplementary Planning Document 'Designing New Housing Development'. In addition, the properties themselves, in terms of internal spacing standards, comply with the technical requirements of the South Yorkshire Residential Design Guide. Furthermore, the garden areas for the 2 bed properties generally exceed 50m² and the 3 beds plus properties generally achieve at least 60m², in accordance with the SPD.

Noise

Noise is identified as the main issue sensitive in terms of whether the development would afford adequate standards of residential amenity for future residents with the noise sources being the substation, the industrial estate and the train line. The indicative plan submitted with the outline application is very similar to the layout proposed as part of the reserved matters application, as such, noise was considered carefully at outline stage and the conclusions are largely the same.

The application has been accompanied by noise reports which have been assessed in detail by Pollution Control Officers in Regulatory Services. The report identifies a particular problem of low frequency noise from the substation that is currently audible across a large area of the site emanating from the eastern boundary and from the industrial estate. The substation and the industrial estate are located on a raised land level in comparison to the site.

Specific analyses have been carried out of the noise levels from these sources, as effecting both internal levels in the proposed dwellings and external levels in the proposed gardens.

The noise assessment report concludes that noise levels within the areas of the site that it is proposed to construct the houses are higher than levels that would be acceptable at present. As such mitigation would be required using a mixture of typical thermal double glazing and high performance sound insulating double glazing with acoustically treated trickle ventilation to reduce the requirements to open windows, which is not uncommon on sites affected by noise around the country as evidenced by specific examples of other developments that have been provided.

The plan shows that noise levels would be highest at the houses that would be located on the eastern outer edge of the development where they would exceed recommended noise levels outside the front of the houses, but not inside the dwellings, or in their rear gardens. These houses would then provide an acoustic barrier, lowering existing noise levels for the remaining parts of the development progressively as each street of houses is provided further within the site and for the existing houses to the west on Dearne Hall Road and Dearne Hall Fold.

The recommendations of the report include conditions that should be imposed on the development specifying the maximum noise levels permissible within the houses and in the private rear garden areas to take into account all the noise sources affecting the site which also include traffic, activities being carried out on Claycliffe Industrial Estate (including Weldmesh) and the railway line. Regulatory Services have confirmed that the noise limits proposed in the conditions recommended would be acceptable to meet the relevant standards.

Both CSP40 and paragraph 141 of the NPPF state that mitigation is potentially an acceptable solution and on balance I would not wish to recommend refusal on noise grounds.

Conditions would be required to minimise the effects of nuisance affecting existing residents during the construction phase, including when No.1 Claycliffe Road is demolished. The development would also have a legal responsibility for any structural damage caused to the existing properties under civil law and any increase in noise in this already heavily trafficked area is unlikely to be significant over and above the existing situation.

Highway Safety

In accordance with CSP26 new development is expected to be designed and built to provide safe, secure and convenient access for all road users and to take mitigating action where necessary.

Highway safety issues are prevalent in the concerns expressed by local residents and BRAND. However, it should be acknowledged that the outline application included access as a matter to be considered and the roundabout and two access points were assessed and approved at that stage, as such, they are not to be reconsidered under this application. Only the highway layout within the site and parking provisions for the individual plots are under consideration.

The findings at outline stage have been highlighted below for clarity;

It was considered that the proposal to provide a new link road through the development would have the potential to be of significant benefit to the area given the benefits of diverting existing traffic away from Dearne Hall Road (which is currently of substandard width for the category of road), together with improving the existing Barnsley Road, Barugh Lane and Claycliffe Road roundabout and reducing traffic flows currently using the existing Dearne Hall Road/Barnsley Road priority junction.

The modelling provided showed that traffic congestion would be reduced on Dearne Hall Road, which would be of benefit to the existing residents in these areas in terms of accessing their properties, reducing existing congestion levels and noise and air quality in these areas. Highways have also confirmed that it would be possible for residents to apply to have the road downgraded and apply other restrictions including weight, or making it access only if circumstances dictate after the new road has been provided, which would have the potential to further benefit existing residents.

There would also be a requirement for the new link road to be constructed to current standards, which would mean that full width 2m footways would need to be provided on either side of the road. This would also be an improvement upon the current situation from a pedestrian safety perspective upon which a number of representations are based upon. It would also assist improve pedestrian accessibility to local bus shops and services for all users that would assist the sustainability point.

In addition the proposed new roundabout at the junctions of Barnsley Road/Claycliffe Road (A637) and Barugh Lane has been the subject of detailed technical assessment by highways and a safety audit and is acceptable with regards to the relevant design standards.

Overall Highways consider that the link road would be of positive benefit to the area. They also accept that the proposed roundabout complies with relevant design standards and agree with the findings of the stage 1 safety audit. As such they raise no objections to the proposal taking into account CSP26 and paragraph 32 of the NPPF which states that 'development should only be prevented or refused where the residual cumulative impacts of

development would be severe', i.e. existing traffic congestion problems are not sufficient to dictate that an application should be refused permission. This consideration is afforded significant weight in favour.

The application also includes a travel plan which is a requirement of CSP25 'New Development and Sustainable Travel' for applications of this scale. The intended aim of the travel plan is to achieve a reduction in car usage from the development. The applicant intends to fulfil these responsibilities by appointing a travel plan coordinator to provide information to residents about public transport services and cycle parking as part of the development. Whilst concerns have been expressed about whether these aims are realistic, the Council's policy and the position in the NPPF is that this approach is supported.

In terms of the current considerations;

The proposed link road layout and associated offshoots are considered acceptable and comply with current policy and guidelines in terms of widths, footpaths, hard margins, surfacing and visibility splays. Highway DC has been consulted on the layout and apart from some recommended amendments which have been carried out during the course of the application they have not raised any objections. As such, highway safety would be maintained to a reasonable degree in accordance with CSP 26.

Each property would have off road parking in accordance with SPD 'Parking' and adequate pedestrian intervisibility splays.

It is acknowledged that highway trees are proposed along the main route through the site which can cause maintenance issues, however, species will be carefully chosen and approved 'pit' designs for the trees will be utilised. Furthermore, the trees and grass verges would aid to discourage on street parking along that route.

Other considerations

Education

In terms of education places, Education has confirmed that the main issue is with regards to lack of available capacity at the nearest school, Barugh Green Primary School. Furthermore additional capacity could only be provided at the Barugh Green with substantial improvements to the infrastructure of the building, the cost of which would be prohibitively expensive (approximately £1 million pounds). The provision of additional places in the area would therefore only be realistically possible by providing an extension of accommodation at an alternative primary school within a 2 mile radius at a cost of £190,000.

The applicants have accepted the need to provide this funding as part of the development at outline stage, which required a S106 Agreement to be signed with the Council.

Biodiversity

Core Strategy Policy CSP36: Biodiversity & Geodiversity states that development which harms biodiversity will not be permitted unless effective mitigation or compensatory measures can be ensured. The NPPF, at paragraph 118, also supports this position.

Great Crested Newts and their habitats are protected under the Wildlife and Countryside Act 1981 (as amended), and by the Conservation of Habitats and Species Regulations 2010 (as amended). Great crested newt and common toad are also listed as Priority Species under the provisions of the NERC Act 2006.

The site currently contains two ponds that are located in an area of marshy grassland in the eastern section of the site (ponds A and B). The ecology report identifies that pond A supports a large population of Great Crested Newts and that the other pond B and surrounding marshland provides suitable habitat. Individual common toads were recorded on two separate occasions within the pond.

Where a lawful operation is required to be carried out, which is likely to result in an offence under the legislation set out above, a European Protected Species licence may be obtained from Natural England to allow the operation to proceed. However, in accordance with the requirements of Section 53 of the Conservation of Habitats and Species Regulations 2010, a European Protected Species licence can only be issued where the following derogation requirements are satisfied:

- The proposal is necessary *‘to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment’*;
- *‘There is no satisfactory alternative’*;
- The proposal *‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.’*

The proposals do not neatly fall into the first two categories. However neither Biodiversity Officer nor Natural England object to the proposals taking into account the mitigation proposals which are to create a replacement pond of a greater size in the relevant area of the site that would increase optimum newt habitat. In addition it could be argued that there are social-economic reasons for the licence to be granted given that the deficiency of the 5 year housing land supply means that there is a short term pressing need for more housing for the period until new housing sites have been adopted in the LDF process.

In any case the report fully recognises that the applicant would need to obtain a Protected Species Licence prior to the development being commenced and the indications this would be granted are positive given Natural England’s stance on the planning application which is not to object.

Whilst many of the objections are focussed upon concerns in relation to this issue, Natural England and the Biodiversity Officer are content with the survey and the form of mitigation proposed and do not object to the application as the qualified experts on the matter. The site is also not part of a designated area such as a SSSI, or natural conservation area. As such Officers are not in a position to recommend refusal on these grounds.

Furthermore, the open space to the North East of the site has been carefully designed with ecology in mind and is considered an appropriate habitat.

Drainage/Flood Risk

Flood risk is another common concern expressed in the objections and is a significant material consideration in any case in accordance with CSP4 ‘Flood Risk’ and the NPPF.

The proposals have been informed by a flood risk assessment which has informed the areas of the site where it is proposed to build the houses are not located in the areas that are categorised in an area that would be classed to be at significant risk of flooding. These details have been assessed by the by the Environment Agency, Council drainage section and Yorkshire Water as the authorities on the matter and are not objected to on flood risk grounds.

A section of the proposed new access road does fall within flood zone 2 and is therefore classed to be at risk of a 1 in 1000 year flooding event. However this is the case for the existing Dearne Hall Road and the potential for inundation of a road surface does not raise the same concerns in planning terms as it does a sensitive use such as housing. The new housing would not be cut off in such an event due the proposed means of access from the southern boundary. Again Environment Agency and Council drainage section has not objected following consideration of the matter.

In addition CSP4 'Flood Risk' makes it a requirement to ensure that surface water run-off rates from the site do not exceed the existing in order to prevent the risk of flooding being increased off the site.

It is proposed to provide an underground storage system to cater for the 1 in 30yr storm events along with the construction of an on-site detention basin. This will serve the additional flood volumes for up to a 1 in 100yr storm event +30% increase for climate change. The detention basin would be located to the North East of the site and has been carefully designed alongside the ecology and open space requirements.

In addition, the new surface water network is to discharge into the River Dearne via a new headwall outfall with a restricted flow rate of 12.3lit/sec. This has been based on the greenfield runoff rate 3.4lit/sec/ha stipulated in the submitted attached Flood Risk Assessment. The Environment Agency has confirmed that the approached outlined above is acceptable at the stated flow rates.

Ground conditions

The ground investigation report has identified that the site is at risk from contamination and shallow coal workings requiring mitigation measures. South Yorkshire Mining Advisory Service (SYMAS) and Regulatory Services are content that the risks have been understood for the purposes of an outline application and do not object subject to conditions requiring the full information to be provided prior the commencement of development.

The proposal is also likely to have implications for archaeology with the former Barnsley Canal route passing through the site and other remains from earlier eras. South Yorkshire Archaeology Service (SYAS) are content with the initial report provided and there would be a need for a condition to agree site investigation works to ensure that any features of significance found are recorded and retained where practicable.

Air Quality

An operational phase air quality assessment was submitted in support of the outline application, which was appraised by Pollution Control officers. The assessment followed an agreed methodology and examined the increased emissions from traffic from the proposed development on the existing road network and nearby properties. The assessment also included an assessment of emissions from permitted development in the adjacent area and the existing road network. The assessment then compared the resulting concentrations of the polluting gas nitrogen dioxide (NO₂) and fine inhalable particles (PM₁₀ particles) against UK and European Union air quality standards, these two air pollutants being strongly associated with traffic emissions.

The assessment concluded that the standards would still be met with the increase in emissions from the proposed development. In particular, the assessment looked closely at concentrations at nearby properties close to the roundabout at the junction of Claycliffe Road, Barugh Lane and Barnsley Road, also taking into account any re-configuration of the roundabout as a result of the proposed development. Pollution Control's appraisal of the

assessment concluded that the methodology of the assessment was appropriate and therefore, as the proposed development would not result in breaching of air quality standards, Pollution Control did not object on air quality grounds.

Other housing development considerations

Open space provision – In accordance with CSP35, CSP42 and the SPD: Open Space Provision on New Housing Developments, all residential development over 20 units are expected to provide green space, whether that be on site or through a financial contribution to upgrade existing infrastructure. The SPD indicates that provision should be on site for developments of this scale. 3.6ha of open space is proposed to be retained as part of the development, although not all of this should be classed to be within the developable area of the site, including the area underneath the powerline and the dedicated habitat open space.

Detailed designs have been provided for the layout of the proposed open space to the North East of the site which, in addition to formal and informal area, including a Neighbourhood Equipped Play Area (NEAP), would accommodate drainage basins and ecology ponds. The open Space has largely been designed in accordance with SPD 'Open Space Provision On New Housing Development'. Further details will be required, however, relating to the equipment within the NEAP and also the maintenance arrangements which would be adopted.

Affordable Housing – Core Strategy policy CSP15 identifies the area of the borough where the site is located as one where 25% of the proposed dwellings in a scheme will be expected to be affordable. The applicant has carried out a viability appraisal, which has informed an offer of 10% of the dwellings to be affordable on site at a mix of 50% social rented and 50% intermediate affordable housing similar to the mix requested by the Affordable Housing Officer.

This is judged to be acceptable taking into account the advice of Paragraph 173 of the NPPF which states that:-

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

Conclusion

In summary, the site is designated Urban Land Remain Undeveloped in the UDP. However the relevant policy is classed to be out of date by the National Planning Policy Framework which means that the application should be considered in the context of the presumption in favour of sustainable development and permission granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or

-specific policies in the Framework indicate development should be restricted.

The assessment concludes that the impacts of the proposed development would not be so significant and adverse to indicate that the application should be refused taking into account the planning policy and other material considerations summarised in the assessment section of the report.

Therefore it is recommended to the Board that the application is granted planning permission subject to the conditions listed below.

Recommendation

Grant planning permission subject to conditions and completion of a S106 Agreement for education provision

- 1 The development, hereby permitted, shall be begun before the expiration of two years from the date of approval.

Reason: In order to comply with the provision of Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission. The relevant plans and documents are outlined below:

- 1414.01 'Planning Layout Rev.E
- 1414.CS 'Street Scenes'
- 1414.04 'Street Scenes'

House Types & Layouts

- 1414.100 to 1414.145 inclusive

Garages

- 1414.200
- 1414.201
- 1414.202

Boundary Treatments

- 1414.300
- 1414.301
- 1414.302

Documents

- Garden Noise Assessment - 14/0561/R01
- Planning Noise Assessment - 13/0190/R1//Revision 6
- Drainage Details - Ref: E14/6120/MH/PW/010
- Great Crested Newt Survey Report - June 2014

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 3 No development shall take place until full details of the proposed external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.

- 4 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.

Reason: To ensure that satisfactory off-street parking/manoeuvring areas are provided, in the interests of highway safety and the free flow of traffic and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.

- 5 Vehicular and pedestrian gradients within the site shall not exceed 1:12 to ensure safe and adequate access.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

- 6 Development shall not commence until details of the siting of the sales cabin, and parking for staff and customers visiting the site, have been submitted and approved in writing by the Local Planning Authority, and such facilities shall be retained for the entire construction period.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

- 7 Prior to the commencement of development, details shall be submitted in writing to the Local Planning Authority of arrangements which secure the following highway improvement works:

- Provision of bus stop clearways
- Measures to restrict parking/loading on the main spine road
- Measures to prevent parking on verges
- Any necessary signing/lining

The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

- 8 Development shall not commence until details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

- 9 All surface water run-off shall be collected and disposed of within the site and shall not be allowed to discharge onto the adjacent highway.
Reason: In the interests of highway safety in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.
- 10 Within 3 months of the commencement of the development the following landscaping details shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be retained thereafter:
- i) proposed finished levels or contours;
 - ii) public open areas;
 - iii) soft landscaping;
 - iv) means of enclosure;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); and
 - viii) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, indicating lines, manholes, supports etc.)
- Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.
- 11 Prior to the commencement of development or other operations being undertaken on site in connection with the development, the following documents prepared in accordance with BS5837 (Trees in Relation to Construction 2005: Recommendations) shall be submitted to and approved in writing by the Local Planning Authority:
- Tree protection plan and barrier details (TPP)
Arboricultural method statement (AMS)
- No development or other operations shall take place except in complete accordance with the approved methodologies. The erection of barrier's for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced off in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
- Reason: To ensure the continued wellbeing of the trees in the interests of the amenity of the locality.
- 12 The development hereby permitted shall not begin until a scheme has been submitted to and approved in writing by the Local Planning Authority

for the provision of public open space in accordance with the adopted LDF Supplementary Planning Document 'Open Space Provision on New Developments'. Provisions and arrangements shall address and contain the following matters:

- (i) The delineation and siting of the proposed public open space
- (ii) The type and nature of the facilities to be provided within the public open space including where relevant the provision of play equipment for a Neighbourhood Equipped Play standard (NEAP) which shall be supplied and installed to a specification as agreed with the Local Planning Authority.
- (iii) The arrangements to ensure that the Public Open Space is laid out and completed during the course of the development
- (iv) The arrangements for the future maintenance of the Public Open Space

The provision of the open space shall be provided prior to completion of the development in accordance with the approved scheme.

Reason: In the interests of residential and visual amenity to ensure adequate provision of public open space in accordance with the adopted Open Space Provision on New Developments LDF SPD

- 13 No development shall commence until a detailed scheme has been submitted to and approved by the Local Planning Authority in writing in order to mitigate the impact of low frequency noise from the electrical substation to the south east of the site, as shown on plan IL21235-020 Rev B, upon noise levels within the dwellings hereby permitted. The scheme shall broadly accord with the Cole Jarman Planning Noise Assessment submitted as part of the application dated 13 June 2013 (Report 13/0190/R1 Revision 6) and shall:
- a) demonstrate that internal noise levels at the 100Hz one-third octave band centre frequency shall not exceed an unweighted 48dB Leq 5 min during the day (0700-2300h) and 43 dB L eq 5 min at night (2300-0700h) respectively at any location with the dwellings due to the operation of the electrical substation; and
 - b) include specifications for the installed performance of external building fabric such as windows and include the provision of alternative means of background ventilation in order to achieve the noise levels set out in (a) above.

The development shall be carried out in accordance with the approved scheme

Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40.

- 14 The development hereby permitted shall not commence until a detailed scheme has been submitted and approved by the Local Planning Authority in writing in order to mitigate the impact of low frequency noise from the electrical substation to the south east of the site, as shown on plan IL21235-020 Rev B, upon noise levels within the gardens of the

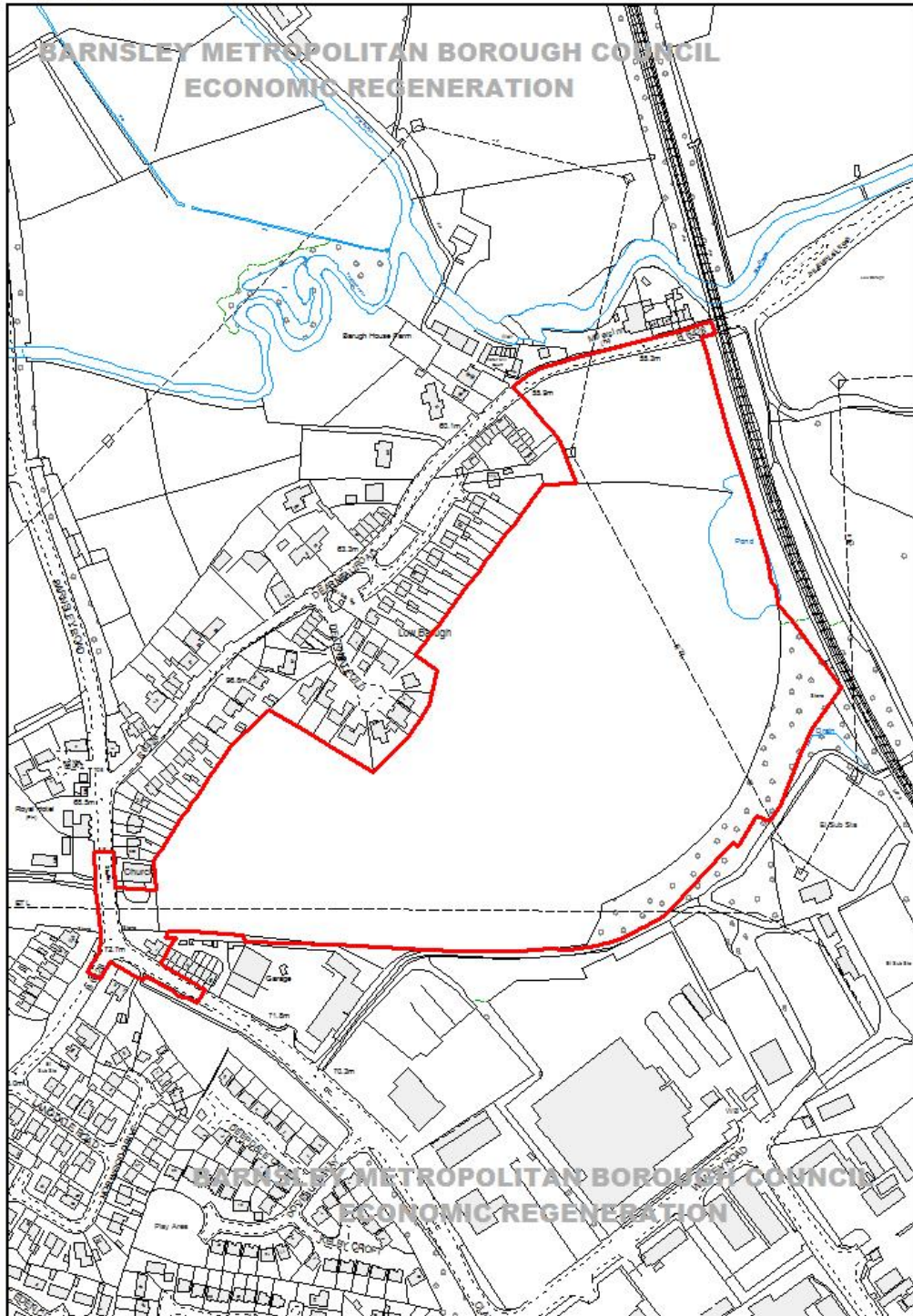
dwellings hereby permitted. The scheme shall broadly accord with the Cole Jarman Planning Noise Assessment submitted as part of the application dated 13 June 2013 (Report 13/0190/R1 Revision 6) and shall demonstrate that within each garden there is provision for an area subject to noise levels at the 100Hz one-third octave band centre frequency shall not exceed an unweighted 54 dB L eq 5 min due to the operation of the electrical substation.

The development shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40.

Layout width 175mm

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BARNSELY MBC - Economic Regeneration



Scale 1: -----

Ref 2015/1302

Applicant: Gleeson Developments Ltd

Description: Residential development - Erection of 43 no. dwellings with associated works

Site Address: Former Highfield Grange Care Home, Blythe Street, Wombwell

2 objections from local residents. Councillors R Wraith and Frost have requested that Members undertake a site visit prior to determining the application. Councillor Frost has expressed concerns on highway grounds.

Site Description

The site is a 1.1ha approximately rectangular shaped area of land which previously housed Highfield Grange Care Home in Wombwell and is located on the western end of Blythe Street where it adjoins Colewell Close.

The site is now vacant following the closure and subsequent demolition of the care home in 2013 leaving behind some of the previous parking areas and vehicle circulation routes. An embankment that previously enclosed the buildings on the site still remains. This is located in the southern 1/3 of the site and transgresses it in an east to west curvature. In addition the site is sparsely populated with a relatively small number of diminutive trees. An exception to this is a Weeping Willow near to the site entrance. However this has suffered from fire damage after being attacked by vandals. Further vegetation exists adjacent the site boundaries. Levels of the site are a feature with the land where levels fall by approximately 6m from the southern boundary to the north.

The surroundings of the site are predominantly residential. Colewell Close wraps is a cul-de-sac containing bungalows which wraps around to the north of the site. To the west the site backs onto Wainwright Street which contains a number of two storey houses that have their rear elevations facing towards, and have their gardens abutting, the site. The site is located next to allotments on the eastern side. Located to the south is a development of 50 sheltered flats on land off Newsome Avenue. A hedgerow is located on this boundary providing a screen between the two sites.

Proposed Development

The application seeks full planning permission for a development of 43 houses.

The development would be made up of a mixture of detached and semi-detached houses that would all be two storeys. The houses would host 8 x 2bed, 31 x 3bed and 4 x 4 bed houses with provision of gardens and parking spaces, which include garages on a number of the plots.

There is no through route from Blythe Street to Barnsley Road which effectively makes it a long cul-de-sac. This would mean that the shortest route to access the site from Barnsley Road would be via John Street. However as John Street is one way, the shortest route to Barnsley Road from the development would extend further to Myrtle Road passing through a section of Blythe Street with a tight street pattern and terraced houses on both sides.

History

B/89/1673/WW – Erection of residential care home for the elderly. Granted planning permission with conditions 01/12/1990.

2013/0901 – Demolition of existing care home (Prior Notification) – Prior approval not required 19/12/2013.

Policy Context

Planning decision should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and the saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Council has produced a Local Plan consultation, which shows possible allocations up to 2033 and associated policies. The document is a material consideration but the weight afforded to it is limited by the fact it is at an early stage in its preparation.

Local Development Framework Core Strategy

CSP3 'Sustainable Drainage Systems'
CSP4 'Flood Risk'
CSP8 'The Location of Growth'
CSP9 'The Number of New Homes to be Built'
CSP10 'The Distribution of New Homes'
CSP14 'Housing Mix and Efficient Use of Land'
CSP15 'Affordable Housing'
CSP25 'New Development and Sustainable Travel'
CSP26 'New Development and Highway Improvement'
CSP29 'Design'
CSP35 'Green Space'
CSP36 'Biodiversity and Geodiversity'
CSP39 'Contaminated and Unstable Land'
CSP40 'Pollution Control and Protection'
CSP42 'Infrastructure and Planning Obligations'

Saved UDP Policies

UDP notation: Housing Policy Area

SPD's

- Designing New Residential Development
- Parking
- Open Space Provision on New Housing Developments

Planning Advice Note's

30 -Sustainable Location of Housing Sites
33- Financial Contributions to School Places

Other

South Yorkshire Residential Design Guide

Emerging Local Plan

Proposed allocation: Housing Proposal

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Consultations

Affordable Housing Officer – No objections.

Biodiversity Officer – No objections subject to conditions.

Contaminated Land Officer – No objections.

Drainage – No objections subject to the condition that full foul and surface water drainage details are submitted prior to the commencement of development for approval by the Council.

Education – No objections.

Highways – No objections subject to conditions including arrangements to secure off site mitigation works, a construction method statement and the proposed parking/manoeuvring arrangements being put in place prior to the occupation of the properties.

Regulatory Services – No objections subject to conditions.

Tree Officer – No objections subject to conditions.

South Yorkshire Police ALO – Comments have been received detailing a number of physical security measures which would assist to enable the development to comply with Secured by Design scheme.

Ward Councillors – Councillors Richard Wraith and Robert Frost have requested that Members undertake a site visit prior to determining the application. Councillor Frost has stated that his concerns are based upon problems with the existing road network which he considers could not safely accommodate another 50-60 vehicles because of the one way road systems that are in place on Blythe Street, John Street and Myrtle Road. In addition concerns are raised that the junction onto Main Street has very poor visibility because of parked cars and that the other exit via Bartholomew Street is often impassable due to the same problem.

Yorkshire Water – No objections subject to conditions.

Representations

The application was publicised notices in the press, on site and by individual neighbour notification to 37 households. 2 objections have been received from local residents. In summary the main objections are summarised as follows:-

Highways – Concerns that the road system is unsuitable to accommodate traffic flows from the development and the development would add traffic onto the existing Blythe Street/John Street one way system. It is stated that a new access would need to be created through to Barnsley Road.

Drainage – Concerns are raised that the system will become overloaded after also being tapped into by the recent development on the former Highfield School site.

Services - It is queried how the Council shall make provision for the demands on Schools, Doctors and Dentists caused by the development.

The type of housing proposed/residential amenity – It is stated that the development, i.e. family housing would compromise the ambience of the area located immediately adjacent to the site with Colewell Close containing bungalows for elderly and vulnerable people. It is queried why the scheme does not contain any bungalows to meet the needs of the increasing numbers of elderly people.

Lack of greenspace – Concerns are raised that the development does not contain a play area increasing the prospect that children will play in the road and cause noise and disturbance affecting existing residents living on the bungalows on Colewell Close.

Anti-social behaviour – Concerns that the development will add to existing problems in the area of fly tipping, drug use, dog fouling, vandalism.

Concerns that the plans have been designed to maximise profit levels for the applicant and has not been designed with the areas best interests at heart.

SYRDG – Concerns that house types, garages and external garden sizes do not appear to meet the standards contained in the South Yorkshire Residential Design Guide.

Assessment

Principle of development

Planning law is that decisions should be taken in accordance with the Development Plan unless material considerations indicate otherwise.

The current position is that the Development Plan consists of the Local Development Framework Core Strategy and the saved Policies of the Unitary Development Plan.

The National Planning Policy Framework (NPPF) is also a significant material consideration. The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For planning application decision taking this means:-

- approving development proposals that accord with the development plan without delay

- where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:-
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - specific policies in the Framework indicate development should be restricted.

The existing Unitary Development Plan notation on the proposed housing site is Housing Policy Area whereby new residential developments are acceptable in principle in accordance with UDP policies H8/WW2. In addition the location of the site accords with the Core Strategy in that it is located in Wombwell which is designated as a Principal Town and a priority to accommodate new housing growth. The proposed development accords with the Development Plan for the Borough in that respect. The proposal to allocate this previously developed site for housing development in the draft Local Plan is a reflection of this fact (site H63), although only a little weight should not be afforded to the latter point at the current time.

Notwithstanding the above, Core Strategy policy CSP 43 'Educational Facilities and Community Uses' is relevant because of the previous use of the site as a care facility. This policy provides protection for sites previously used for community facilities unless it can be demonstrated that sites are no longer required by the existing use, or for an alternative community use. In this case the applicant has stated that the site was marketed by the Council in an attempt to generate interest as a going concern and was for a number of years included on the Asset Disposal Programme. No viable alternative was proposed for the site and following a spate of vandalism the buildings were demolished in 2013. Subsequent marketing revealed no interest from any user except for residential development. It is therefore considered that this demonstrates that the requirements of the policy have been satisfactorily addressed.

In summary the proposal complies with the development plan in land use planning policy terms and therefore the presumption in favour of sustainable development would apply from a land use perspective.

The proposed development – housing policy considerations and design/visual amenity

The relevant local planning policies for assessing the plans are the Designing New Residential Development SPD, CSP29 'Design', CSP14 'Housing Mix and Efficient Use of Land'.

The first aim of CSP14 'Housing Mix and Efficient Use of Land' is to ensure that housing developments achieve a mixture of house size, type and tenure. The plans include a mixture of two, three and four bedroom houses with potential to extend in the future and so this part of the policy is considered to be fairly well satisfied. A resident has criticised the application for not including bungalows and I have some sympathy with that view seeing as the development would sit directly next to and opposite existing bungalows. However as has been previously explained to Members where this query has been raised there are no adopted planning policies in place to insist upon the provision of bungalows as part of private housing developments. The applicants were asked to consider including some bungalows. However in this case the developer's product is aimed at low cost family housing and bungalows are not within their portfolio of house types. They also feel they have provided a suitable mix of dwellings, ranging from 2 to 4 bed properties, to meet the relevant policies without the need for bungalows on the site.

Another of the resident's objections is based upon the amount of development proposed on the site. However the density of development equates to the minimum expected by CSP14 without compromising on the majority of spacing design standards set out in the SPD (see

forthcoming section on residential amenity section). On this point Members should be mindful of the point that the Council is currently unable to demonstrate a 5 year housing land supply which is a significant material consideration.

The site is also previously developed and so the development would contribute towards the Core Strategy target of building between 55% and 60% of new dwellings on brownfield land which also forms part of policy CSP14.

In terms of the design of the properties, the dwellings are a conventional form of two storey housing and are of a good standard of appearance. The materials proposed are brick walls with tiled roofs to harmonise with the surroundings. A reasonable amount of tree planting is indicated, although a condition would be required to control the details. In addition protection measures would be necessary for the trees located adjacent to the site boundaries.

A comment has been received questioning whether the plans comply with the internal space standards in the South Yorkshire Residential Design Guide. However internal space standards can now only be enforced if the Council were to introduce a planning policy which adopts the new National standards.

In summary the plans are assessed to be acceptable in relation to housing planning policy and design/visual amenity considerations taking into account a range of policies including CSP14 'Housing Mix and Efficient Use of Land', the Designing Residential Development SPD and CSP29 'Design'.

Residential Amenity

The application is sensitive from a residential amenity perspective because the site is located next to and opposite the existing bungalows on Colewell Close. In addition a number of houses on Wainwright Close have their rear elevations and gardens facing towards the site. However loss of view is not a material planning consideration and the plots have been designed so that they are located at distances away from existing properties and their gardens so that the standards in the Council's SPD are satisfied regarding overlooking and overshadowing issues, in particular as the development would face the front and sides of the Colewell Close bungalows rather than private rear elevations.

Within the site, plot separation distances and garden sizes comply with the SPD. Levels for the plots have not been fully detailed but this can be conditioned to ensure agreement is reached on plot levels prior to the commencement of development.

A condition in relation to providing construction method statement would need to be put in place to mitigate the effects of noise and dust during the construction phase.

Highway Safety

Councillors Richard Wraith and Robert Frost have requested that Members undertake a site visit prior to determining the application; Councillor Frost has raised concerns about the ability of the local road network to accommodate an increase in traffic arising from the development.

The submitted transport assessment predicts that the development would be likely to generate an average of 25 two way movements during the morning peak period and 27 two way movements during the evening peak period. These flows would equate to approximately 1 extra trip on the local highway network every two minutes.

The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development would be severe. Based upon the limited increase in flows predicted Highways are of the view that this would not be the case and have resolved not to object on that basis. Furthermore some of the increased traffic flows would be offset by the fact that the site is no longer in use as a care home. This is something else which needs to be weighted in when considering the residual cumulative impacts of the development. Highways have afforded consideration to the proposal and do not object in to the development in principle as the increase in traffic over and above the previous use could not be reasonably determined to result in severe impacts in an NPPF context. However they consider that off-site mitigation is required in the form of parking restrictions being added to the junctions of John Street/Blythe Street and Blythe Street/Main Street to prevent visibility being restricted as it is currently. Furthermore works should be carried out to form a junction plateau at the junction between Blythe Street and Colewell Close. This could be dealt with by condition.

Within the site design of the roads meets the required standards in terms of width, visibility, speed calming, manoeuvrability and parking.

Sustainable travel is a further consideration. The site is positioned in an established urban settlement and would benefit to access from local bus stop and a primary bus service connecting to Barnsley Town Centre and Meadowhall that would be within the maximum recommended distance of 400m. In addition the site is located approximately 1km from Wombwell Town Centre with access to a range of facilities including supermarkets, convenience stores, banks, a pharmacy, post office and pubs. Whilst this slightly exceeds recommended distance of 800m in PAN30, as does the distance to the nearest primary and secondary schools I do not consider that there would be a defensible argument to conclude that the site is unsustainable. The nearest doctors is located within 450m of the site. The development is also below the threshold of 50 dwellings whereby a Travel Plan would be required.

Other S106 considerations – education, public open space and affordable housing

Education – The Head of School Organisation has confirmed that Wombwell Park Street Primary school is being extended by 3 classrooms over the next school year increasing capacity from 240 to 330 pupils. The effect of this increase would create sufficient capacity at local primary schools to accommodate pupils from the development. Netherwood ALC was constructed with excess capacity and the Education Authority has not raised any concerns accordingly with the proposal.

Open space provision –New green space provision is required to be provided as part of the development in accordance with SPD: Open Space Provision on New Housing Developments. Planning Policy have undertaken a needs assessment which has concluded that a commuted sum for off-site provision which is based on the formula in the SPD would be the most appropriate option in this case (£72,964.00). A S106 Agreement would be needed to secure the legal arrangements.

Affordable housing – The site is an area where affordable housing provision should be equivalent to 15% of the overall number of dwellings in accordance with CSP15. In this case it has been determined that provision would be best met via the payment a commuted sum for off-site provision. A figure of £283,730 has been agreed with the applicants and this would also need to form part of the S106 Agreement.

Other considerations

Drainage/Flood Risk

The Flood Risk Assessment has concluded that the site is not in an area that is classed to be at risk of flooding, i.e. it is located outside of EA flood zones 2 and 3 and therefore policy CSP3 'Flood Risk' is complied with and the advice within the NPPF.

The management of surface water run-off from the development is another important consideration in order to prevent an increase in the risk of flooding off the site. The applicant has submitted the results of investigations which have concluded that the ground conditions are not suitable to accommodate soakaways. Therefore the development is proposed to be constructed with oversized pipes and a hydrobrake to ensure that surface water run off rates are reduced by 30% below existing levels from the site. Drainage Officers and Yorkshire Water have confirmed that this is an appropriate solution in this case.

In terms of foul sewerage, Yorkshire Water has confirmed that there is capacity in the system to accommodate flows from the development.

Ground Conditions

The ground investigation report has not identified any significant constraints from previous uses, although a clean capping layer of 300mm soil thickness is recommended in private gardens in the areas containing made ground. Regulatory Services are content with this recommendation and with the assessment of the risks.

The site is not located in a Coal Mining Referral Area and so no risks have been identified with regards to shallow coal workings.

Ecology

The main criteria for assessing the application is CSP36 'Geodiversity and Biodiversity'. The application is supported by a phase 1 habitat survey which has concluded that the ecological potential of the site is low taking into account the habitat on site and its potential to support protected species. The report does identify that bird nests would have the potential to be affected during site clearance works. However, provided that clearance works is undertaken outside of March to August as is recommended, the relevant legislation would not be breached. In addition an invasive plant species (Himalayan cotoneaster) should be disposed of responsibly.

The Biodiversity Officer has considered the report findings and recommendations and has not raised any objections subject to a condition requiring further details of the mitigation/enhancement proposals prior to the commencement of development. Overall there are no concerns in relation to CSP36.

Capacity at local Doctors and Dentists

This has been raised as an issue but this is not a matter to be resolved through the planning system based upon how the NHS is funded.

Conclusion

In summary, the proposed housing development would be built upon land which is in a UDP Housing Policy Area whereby new residential developments are acceptable in principle in accordance with UDP policies H8/MW2. In addition the location of the site accords with the Core Strategy in that it is located in Wombwell which is designated as a Principal Town and a priority to accommodate housing growth, in this case 2000 dwellings before 2026 in

accordance with policies CSP8 and CSP10. It is also satisfied that the site is no longer needed for community facilities having regard to Core Strategy policy CSP43. Therefore the presumption in favour of sustainable development within the NPPF would apply from a land use perspective.

The proposals have been assessed for compliance with the other development plan policies and the Designing Residential Development SPD and are judged acceptable based upon the reasons which are summarised as follows:-

- Having regard to the definition of sustainable development in the NPPF the proposal would deliver a number of positive economic and social benefits in that the development would provide 43 houses in an area designated to accommodate housing growth contributing towards addressing the deficiency in the five year housing land supply. In addition the proposals would lead to the provision of public open space and affordable housing off site. Furthermore it has been judged that the development would not give rise to any significant or adverse environmental impacts.
- The plans are assessed to be acceptable in relation to housing planning policy and design/visual and residential amenity considerations having regards to the Designing New Residential Development SPD, CSP29 'Design', CSP14 'Housing Mix and Efficient Use of Land'.
- The residual cumulative impacts of the development on the highway network would not be severe having regard to the NPPF and could be adequately mitigated against by off-site improvement works. Accordingly the proposal is judged acceptable when considered against policy CSP26 'New Development and Highway Improvement'.
- The proposals are considered to satisfy the relevant Core Strategy policies covering other material considerations including flood risk, biodiversity, land stability, trees and pollution control issues.

Therefore it is recommended to the Board that the application is granted planning permission, subject to the conditions listed below. In addition a S106 Agreement would be required in relation to the provision of off-site public open space and affordable housing provision.

Recommendation

Grant planning permission subject to completion of S106 Agreement (Public Open Space and Affordable Housing)

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission:-

453/2-E, planning layout rev F
201 F, 201 dwelling type
301/1G, 301 dwelling type
302/1G, 302 dwelling type
304/1E, 304 dwelling type
307/1B, 307 dwelling type
309/1E, 309 dwelling type
310/1D, 310 dwelling type

311/1A, 311 dwelling type
401/1G, 401 dwelling type
404/1F, 404 dwelling type
Edward Architectural plan SD-100 rev C 'Boundary treatments 1800mm timber fence'
Edward Architectural plan SD103 rev B 'Post and Rail Fence'

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 3 Prior to the commencement of development plans to show the following levels shall be submitted to and approved by the Local Planning Authority; finished floor levels of all buildings and structures; road levels; existing and finished ground levels. Thereafter the development shall proceed in accordance with the approved details.

Reason: To enable the impact arising from need for any changes in level to be assessed and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 4 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 5 Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of arrangements which secure the following highway improvement works:

- a) Measures to prevent parking at the junction of John Street/Blythe Street;
- b) Measures to prevent parking at the junction of Blythe Street/Main Street;
- c) Provision of junction plateau at the junction of Blythe Street and Colewell Close

The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 6 Pedestrian intervisibility splays, having the dimensions 2m x 2m, shall be safeguarded at the drive entrance/exit such that there is no obstruction to visibility at a height exceeding 1m.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

- 7 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Means of access for construction traffic
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction
- Measures to control noise levels during construction

Reason: In the interests of highway safety, residential amenity and visual amenity, in accordance with Core Strategy Policies CSP 26 and CSP 40.

- 8 Vehicular and pedestrian gradients within the site shall not exceed 1:12.
Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.
- 9 Prior to any works commencing on-site, a condition survey (including structural integrity) of the highways to be used by construction traffic shall be carried out in association with the Local Planning Authority. The methodology of the survey shall be approved in writing by the Local Planning Authority and shall assess the existing state of the highway. On completion of the development a second condition survey shall be carried out and shall be submitted for the written approval of the Local Planning Authority, which shall identify defects attributable to the traffic ensuing from the development. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.
Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.
- 10 No development shall take place until full foul and surface water drainage details, including a scheme to reduce surface water run-off by at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented and the scheme shall be retained throughout the life of the development.
Reason: To ensure proper drainage of the area, in accordance with Core Strategy policy CSP4.
- 11 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, full details of both hard and soft landscaping works, including details of the species, positions and planted heights of proposed trees and shrubs; together with details of the position and condition of any existing trees and hedgerows to be retained. The approved hard landscaping details shall be implemented prior to the occupation of the building(s).
Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.
- 12 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: In the interests of the visual amenities of the locality, in accordance with Core Strategy Policy CSP 29.
- 13 No development or other operations being undertaken on site shall take place until the following documents in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations have been submitted to and approved in writing by the Local Planning Authority:
- Tree protective barrier details
Tree protection plan

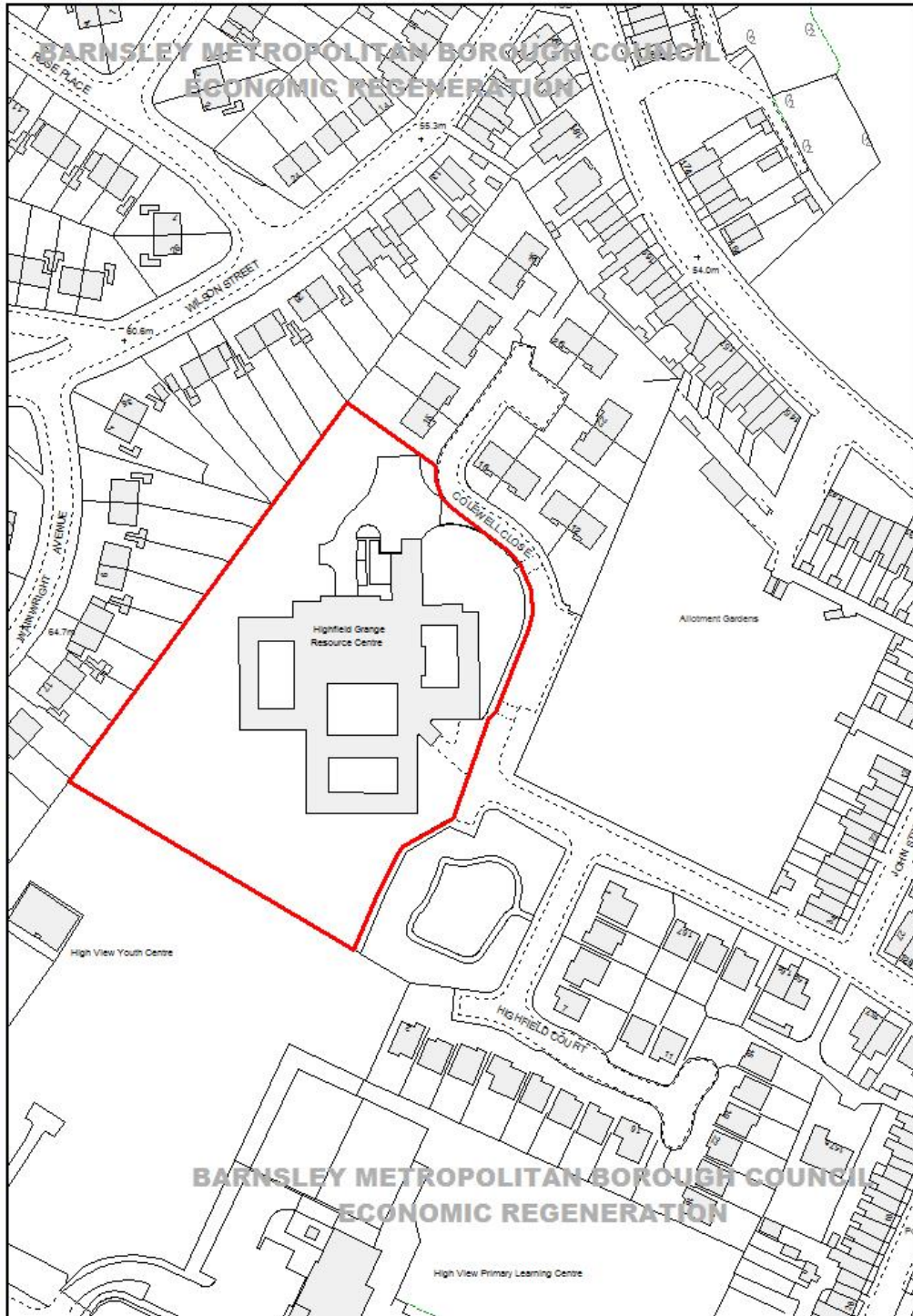
Arboricultural method statement

The approved fencing shall be installed before machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced off in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
Reason: To safeguard existing trees, in the interest of visual amenity.

- 14 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40.
- 15 The boundary treatments indicated on plan ref 451/3E shall be completed before the dwelling is occupied. Development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and the amenities of occupiers of adjoining property in accordance with Core Strategy policy CSP 29.
- 16 Prior to commencement of development full details of the mitigation measures identified in the Ecological Survey, including a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
Reason: To conserve and enhance biodiversity in accordance with Core Strategy Policy CSP 36.
- 17 Development shall not commence until details of the siting of the sales cabin, and parking for staff and customers visiting the site, have been submitted and approved in writing by the Local Planning Authority, and such facilities shall be retained for the entire construction period.
Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.
- 18 No development shall take place until full details of the proposed external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.

Layout width 175mm

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BARNSELY MBC - Economic Regeneration



Scale 1: _____

2015/1163

Mr M Platts

Erection of 7 no. Bungalows

Land adjacent 30 Rotherham Road, Great Houghton, Barnsley, S72 0DE

No letters of objection received

Councillor Higginbottom has requested the application go to the Planning Board.

Description

The site is the former Sandhill Primary School set off Rotherham Road, Great Houghton. The site is currently vacant and measures approximately 0.26ha and gently slopes up towards to the south. The school building was demolished and relocated to the new Sandhill Primary School building located off Dearne Street in 2007.

The site is set within a predominately residential area, characterised by traditional, terraced dwellings and semi-detached properties. Adjacent to the site to the north, is Great Houghton Library/Hall. To the eastern boundary is a bungalow and to the south is a recreation area.

Proposed Development

The applicant seeks permission for the erection of 7 bungalows. The bungalows are arranged around a private drive access from Rotherham Road. There are 3 different house types proposed with 3, 2 bed bungalows (House Type A) and 4, 3 bed bungalows (house types B and C). All of the dwellings have 2 parking spaces per unit, with plots 4, 5, 6 and 7 having detached garages. The properties have ample front and rear gardens.

The dwellings have been designed with hipped roofs and small feature canopies/porches to the front and constructed from artificial stone with a grey concrete tiled roof. Three of the properties face onto Rotherham Road.

In support of the application, the applicant has submitted a transport statement prepared by Cannon Highways Ltd, dated September 2015.

Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy and saved Unitary Development Plan policies. The Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance Notes, which are other material considerations.

The Core Strategy

CSP26 New Development and Highway Improvement

CSP29 Design

CSP43 Educational Facilities and Community Uses

Saved UDP Policies

H8A – The scale, layout, height and design of all new dwellings proposed within the existing residential areas must ensure that the living conditions and overall standards of residential

amenity are provided or maintained to an acceptable level both for new residents and those existing, particularly in respect of the levels of mutual privacy, landscaping and access arrangements.

H8D – Planning permission for infill, backland or tandem development involving single or a small number of dwellings within existing residential areas will only be granted where development would not result in harm to the local environment or the amenities of existing residents, create traffic problems or prejudice the possible future development of a larger area of land.

Consultation Draft Local Plan

The Council has produced a Consultation Draft Local Plan which shows possible allocations up to 2033 and associated policies. The document is a material consideration but the weight afforded to it is limited by the fact it is at an early stage in its preparation. In the Policies Maps the site is allocated as Urban Fabric.

Unitary Development Plan

The UDP designation is Community Facility

Relevant Supplementary Planning Documents and Advice Notes

SPD Designing New Housing
SPD Parking

NPPF

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 32: 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'

Para's 58 & 60: Design considerations

Consultations

Drainage – No objections subject to conditions

Yorkshire Water – No objections subject to conditions

Regulatory Services – No objections subject to conditions

Highways DC – No objections subject to conditions

Representations

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

Assessment

Principle of Development

The site is currently vacant following the demolition of the former Sandhill Primary School. Due to its former use, the site is allocated as a Community Facility within the UDP Proposals Maps. Policy CSP 43 – ‘Educational Facilities and Community Uses’ of the Core Strategy applies to such uses. CSP 43 states that such uses will be protected from development unless it can be demonstrated that the sites and premises are no longer required by the existing use or an alternative community use.

The school was demolished and relocated to the new Sandhill Primary School building located off Dearne Street in 2007. The application site has stood vacant since this time with no other community uses coming forward to utilise the site. . The site is close to the centre of Great Houghton where there are other community facilities in close proximity including a Church and Working Mens Club. As such it not considered that the site is necessary or required for a community use, and its loss would not be of detriment to the locality. As such other uses can be considered and, given the adjacent areas are allocated as Housing Policy Areas, it is felt that a residential use would be compatible with the surrounding uses. The proposals are also for the redevelopment of a brownfield site and are within a sustainable location. The principle of a residential development of the site is therefore acceptable in principle subject to other material considerations as outlined below.

Residential Amenity

No objections have been raised by neighbouring residents. The properties have been designed to meet the required separation distances set out in SPD ‘Designing New Housing Development’. It is not felt that there would be any significant impact by way of overlooking, overshadowing or disturbance created by the proposal once constructed.

In terms of external spacing, the plots meet or exceed the garden areas set out in the SPD and South Yorkshire Residential Design Guide. All the properties are single storey dwellings and they provide an acceptable layout to ensure amenities of future occupiers are adequately protected. The proposal is considered acceptable in terms of residential amenity in accordance with the SPD ‘Designing New Housing Development’.

Visual Amenity

From a visual/design perspective, the proposed dwellings on this site would be appropriate in their context and not result in a visually intrusive or overly prominent feature within the street scene. The properties in the immediate area mainly consist of terraced dwellings and semi-detached properties. Immediately to the eastern boundary is a stone built hipped roofed bungalow. The proposed bungalows have been designed with stone heads and cills, hipped roofs and small feature canopies/porches to the front and constructed from artificial stone with a grey concrete tiled roof. Three of the properties face/side onto Rotherham Road to create an active frontage, with the properties to the rear facing onto the private cul-de-sac.

The proposal is well designed, appropriate for the area and considered to accord with policies CSP 29, and the SPD ‘Designing New Residential Development’.

Drainage

The Council's Drainage Officer and Yorkshire Water have been consulted and have no objections to the proposal subject to conditions.

Highway Safety

The site is accessed from Rotherham Road which is a classified road which links Great Houghton with the A6195, a primary route between Barnsley and Doncaster to the south and the A628/A6201 in the north. The transport assessment submitted with the application indicates that due to the nature of the development that there would be a negligible impact in terms of additional traffic and that recent accident records indicate that there are no road safety problems within the vicinity of the site.

There are a number of road calming measures along Rotherham Road with speed humps being present on the approach to the site from Middlecliffe. The access to the site is in close proximity to a road junction, with a bus stop and layby opposite adjacent to the village hall, and a school crossing patrol point immediately adjacent. Visibility is restricted by the horizontal alignment of the highway, and the appropriate visibility for a 30mph speed limit cannot be achieved. However, there is extensive speed calming throughout Great Houghton which controls speeds.

Highways have stated that the current speed humps on the approach to the site from Middlecliffe are outdated and are in need upgrading to match those within the centre to further reduce speeds. The applicant has proposed to replace the two rows of speed bumps to the south of the site which will allow for a reduction in overall speed. This reduction in speed would allow a corresponding reduction in the visibility requirement which is currently restricted by the horizontal alignment of the highway. Consequently, highways have no objections to the proposed development, subject to conditions including the following highway improvement works to be submitted and approved prior to commencement of development:

- Replacement of two rows of speed humps immediately to the south of the site;
- Measures to prevent parking on the site frontage and in the bus layby;
- Any necessary signing/lining.

It is acknowledged that the upgrading of the speed humps may not be considered a popular approach with local residents as the upgrade will result in the tarmac speed humps being replaced by the larger plastic style speed humps seen further up Rotherham Road. Whilst these are more effective at controlling speeds they can be seen as unpopular with local residents who can see them as being too 'harsh' especially if they use the road on a daily basis. However, it is likely that these speed humps would be upgraded in time anyhow, under highways works that go on throughout the borough. The visual impact of these changes is also minimal to the locality. The upgrade would also allow a slowing down of the speeds to ensure the development meets the visibility requirements required by highways. As such, it is not considered that this proposal would be of any significant detriment to the highway or to the locality to warrant refusal of the application.

Overall the site layout allows for the safe parking and manoeuvring of properties within the site and each dwelling has been provided with 2 parking spaces in line with the SPD Parking. Highways DC have raised no objections in principle and subject to the imposition of appropriate conditions, the scheme is not considered to be of any significant detriment to highway safety in accordance with policy CSP 26.

Conclusion

The site is no longer required for a community purpose and as the site is set in a primarily residential area and adjacent areas are allocated as Housing Policy Areas, it is felt that a residential use would be compatible with the surrounding uses. Consequently the proposal reflects the requirements of Core Strategy policy CSP 43.

The design and scale of the proposal is appropriate and would not have any significant impact upon visual amenity or residential amenity. The highways section have raised no objection to the proposal subject to conditions, and as such the scheme is considered to accord with policies and guidelines and is recommended for approval.

Recommendation

Grant subject to conditions

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby approved shall be carried out strictly in accordance with the plans (Nos 01/02, 01/03, A-01, B-01, C-01, SG-01) and specifications as approved unless required by any other conditions in this permission.
Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.

- 3 No development shall take place until full details of the proposed external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: In the interests of the visual amenities of the locality and in accordance with Core Strategy Policy CSP 29, Design.

- 4 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - The parking of vehicles of site operatives and visitors
 - Means of access for construction traffic
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - Wheel washing facilities
 - Measures to control the emission of dust and dirt during construction
 - Measures to control noise levels during constructionReason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement, and CSP 29, Design.

- 5 Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on

Sundays or Bank Holidays.

Reason: In the interests of the amenities of local residents and in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

6 No development shall take place until:

(a) Full foul and surface water drainage details, including a scheme to reduce surface water run off by at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority:

(b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;

(c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways;

Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.

Reason: To ensure proper drainage of the area in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

7 The parking/manoeuvring facilities, indicated on the submitted plan, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.

Reason: To ensure that satisfactory off-street parking/manoeuvring areas are provided, in the interests of highway safety and the free flow of traffic and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.

8 Pedestrian intervisibility splays having the dimensions of 2 m by 2 m shall be safeguarded at the drive entrance/exit such that there is no obstruction to vision at a height exceeding 1m above the nearside channel level of the adjacent highway.

Reason: In the interest of road safety in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement.

9 The visibility splays, indicated on the approved plan, shall be safeguarded such that there is no obstruction to visibility and forming part of the adopted highway.

Reason: In the interest of highway safety, in accordance with Core Strategy Policy CSP 26.

10 All surface water run-off shall be collected and disposed of within the site and shall not be allowed to discharge onto the adjacent highway.

Reason: In the interests of highway safety in accordance with Core Strategy Policy CSP 40, Pollution Control and Protection.

11 Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority of arrangements which secure the following highway improvement works:

- Replacement of two rows of speed humps immediately to the south of the site;
- Measures to prevent parking on the site frontage and in the bus layby;

- Any necessary signing/lining.

The works shall be completed in accordance with the approved details and a timetable to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic in accordance with Core Strategy policy CSP 26.

- 12 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:-

- The parking of vehicles of site operatives and visitors;
- Means of access for construction traffic;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- Measures to prevent mud/debris being deposited on the public highway.

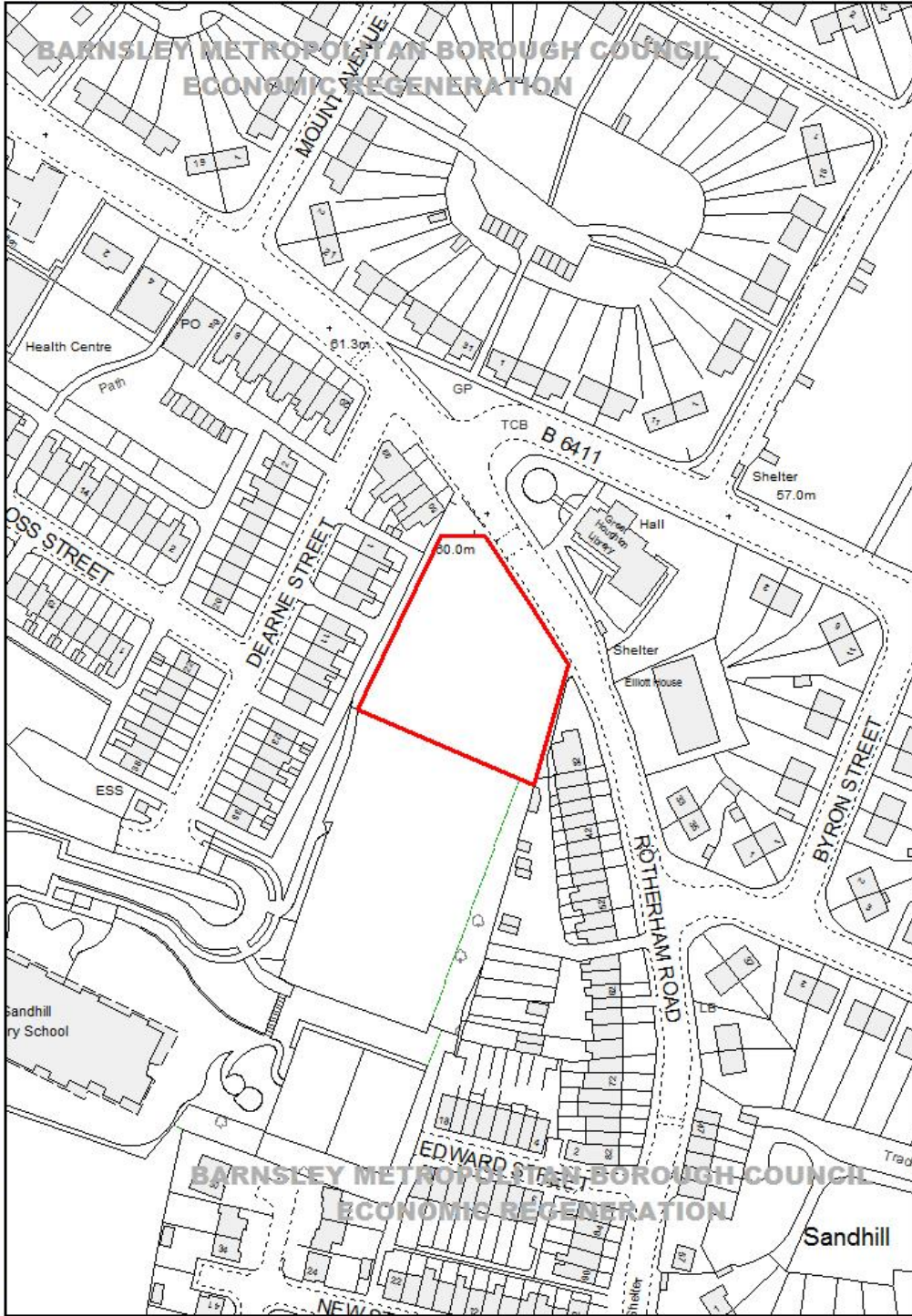
Reason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement, and CSP 29, Design.

- 13 Prior to any works commencing on-site, a condition survey (including structural integrity) of the highways to be used by construction traffic shall be carried out in association with the Local Planning Authority. The methodology of the survey shall be approved in writing by the Local Planning Authority and shall assess the existing state of the highway. On completion of the development a second condition survey shall be carried out and shall be submitted for the written approval of the Local Planning Authority, which shall identify defects attributable to the traffic ensuing from the development. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, residential amenity and visual amenity and in accordance with Core Strategy Policy CSP 26, New Development and Highway Improvement, and CSP 29, Design.

Layout width 175mm

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BARNESLEY MBC - Economic Regeneration



Scale 1: _____

BARNSLEY METROPOLITAN BOROUGH COUNCIL

PLANNING APPEALS

01 January 2016 to 31 January 2016

APPEALS RECEIVED

5 appeals were received during January 2016.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Committee/ Delegated</u>
2013/0356	Erection of 1 no detached dwelling and garage alterations to access and provision of parking space to existing dwelling at 5 Carr Head Road Wortley Sheffield S35 7HG	Written representation	Delegated
2015/0199	Erection of 5 no. dwellings including demolition of existing property at 315 Dodworth Road, Barnsley, S70 6PN	Written representation	Delegated
2015/0855	Erection of rear two storey extension to dwelling at 3 Wellhouse Grange, Halifax Road, Penistone, Sheffield, S36 7EY	Written representation	Delegated
2015/1162	Conversion of rear car park into beer garden/patio area with raised decking (Retrospective) at Cross Inn, 7 Summer Lane, Royston, Barnsley, S71 4SE (Enforcement Notice)	Written representation	Delegated
2015/1162	Conversion of rear car park into beer garden/patio area with raised decking (Retrospective) at Cross Inn, 7 Summer Lane, Royston, Barnsley, S71 4SE (Planning Refusal)	Written representation	Delegated

APPEALS WITHDRAWN

No appeals were withdrawn in January 2016.

APPEALS DECIDED

No appeals were decided in January 2016.

2015/2016 Cumulative Appeal Totals

- 15 appeals decided since 01 April 2015
- 13 appeals (87%) dismissed since 01 April 2015
- 2 appeals (13%) allowed since 01 April 2015

Item 5

Report Ref No.

**Report of the Head of Planning
and Building Control to
the Planning Regulatory Board
on 23rd February 2016**

TRUSTEES OF BOULDER BRIDGE LANE TRUST V THE COUNCIL.
APPLICATION FOR A CERTIFICATE OF APPROPRIATE ALTERNATIVE
DEVELOPMENT PURSUANT TO THE LAND COMPENSATION ACT 1961.

- 1.0 Purpose of Report
- 1.1 To reassess the Certificate of Appropriate Alternative Development issued on 27th October 2015 relating to land at Carlton Marsh Carlton on the basis of the circumstances that prevailed on 10th December 1985 and if necessary issue an addendum to that Certificate.
- 1.2 Members may recall that at Planning Regulatory Board on 27 October 2015, authority was given to the Head of Planning and Building Control to issue a S17 Certificate confirming that if the land subject of the application for a Certificate of Appropriate Alternative Development were not acquired by the Barnsley Metropolitan Borough Council in exercising its Compulsory Purchase Powers, planning permission would **NOT** have been granted for any other use. The assessment was undertaken on current planning policies and a negative nil development Certificate issued.
- 1.3 An appeal against that Certificate has been made to the Upper Tribunal Lands Chamber by the trustees of Boulder Bridge. The Council, as part of its response to the statement of case submitted, need to provide a further assessment of the planning permissions that might have been granted historically, in addition to the assessment conducted on 27th October 2015 that resulted in the issue of the Certificate.
- 1.4 The basis of the assessment that the Board are asked to make in this report is similar to the determination made on 27th October 2015 in that they must consider what planning permission might have been granted on the land assuming that there were no plans for the land to have been acquired for the purposes specified under the 1985 compulsory purchase order (land reclamation). The Board must consider the historic hypothetical position and assess whether planning permission would have been granted in the circumstances that existed on 10th December 1985 (the date of the notice publicising the Compulsory Purchase Order). This means assessing on the policy position in 1985 and the physical state of the land and surrounding environment that existed at that date.
- 1.5 The objectives of this report are to assess three suggested types of development which, in the opinion of the Trustees of Boulder Bridge Lane Trust, is development that, for the purposes of section 14, is Appropriate Alternative Development in relation to the acquisition concerned. A Certificate

of Appropriate Alternative Development is NOT a planning application. The three suggested types of development are:

Light and general industrial purposes as now defined within classes B1 and B2 of the Town and Country Planning (Use Classes Order 1987 as amended), Extraction of Fuel deposits, Landfill.

- 1.6 As previously stated for the purposes of the CAAD the assessment date undertaken is assumed to be 10th December 1985.
- 1.7 It is recognised at the outset that this is a difficult task and the report makes clear where there are any gaps in knowledge or uncertainty about the physical or policy position.

2.0 Recommendation

- 2.1 That the Board consider that no use, other than the extraction of fuel deposits, would have been considered to be appropriate alternative development as at 10 December 1985 and that Authority be given to the Head of Planning and Building Control to issue an addendum to the S17 Certificate previously issued to that effect, subject to conditions which include limiting the period by when the land must be restored.

3.0 Background

- 3.1 On 9th December 1985 the Council made the Metropolitan Borough of Barnsley (Carlton)(Land Reclamation) Compulsory Purchase Order 1985 in respect of the land subject to this application. The notice to owners publicising the Order was made on 10th December 1985. This is the date the planning position must be assessed in accordance with sections 17 and 22 of the Land Acquisition Act 1961.
- 3.2 On 13th November 1986 planning permission was subsequently granted on the land for reclamation of fuel by surface working and subsequent restoration of the site. A condition attached to the permission specified that the development, including the restoration of the site, should have been completed within three years from the commencement of development.
- 3.3 The CPO was confirmed by the Secretary of State on 25th November 1986 and published in December 1986. A Notice of Entry was served on 17th January 1990. The Council took possession of the land following this Notice. However compensation was never paid to the Trustees' predecessors and the registered title remains registered in the names of the Trustees.
- 3.4 In 2014, an application was made by BMBC to the Upper Tribunal (Lands Chamber) for a valuation of compensation for the CPO to be paid to the Trustees in order that transfer of title to the land could be agreed or that the awarded compensation be paid into court and the vesting of the land effected by Deed Poll.

- 3.5 This was in response to incidents of vandalism and blocking of access to the land by the Trustees. It was decided that title to the land had to be secured by the Council before enforcement action could be successfully taken by the Council.
- 3.6 In November 2014 the Trustees commenced a claim in the High Court, challenging the validity of the CPO. The application to the Upper Tribunal was stayed until the High Court proceedings were determined. The High Court proceedings have been settled by consent between the parties and a Consent Order issued which provided some agreement on how the reference to the Upper Tribunal should proceed.
- 3.7 This included consolidating both the valuation reference to the Upper Tribunal made by the Council with the appeal to the Upper Tribunal against the Certificate issued on 27th October 2015. It is an important part of these proceedings that this historic assessment is undertaken.
- 4.0 Site Description circa 1985
- 4.1 This site lies to the north-east of Barnsley centre between Carlton, in the west, and Cudworth to the south-east and forms an elongated V shape. The western boundary of the site forms the left arm of the V and is marked by a mineral line to the west. The eastern boundary of the site forms the right arm of the V and is marked by a disused railway line.
- 4.2 Between the two arms of the V shape lies the southern part of the Boulder Bridge Scrapyards which are not part of the land in dispute. To the south of this lies the redundant marshalling yards. The railway embankments and marshalling grounds are believed to be of made ground with the embankments providing some screening to the Boulder Bridge scrap yards and residential dwellings approximately 100m to the east and 200m to the west. The railway embankment and adjacent marshalling yard form the majority of the disputed land.
- 4.3 The site to the south east of Shaw Lane comprises an area of land comprising Carlton Marsh Nature Reserve, a statutory Local Nature Reserve (DEFRA ref 1008825) and Local Wildlife Site No 27.
- 4.4 Photographs taken at the approximate date for the assessment appear to show an area previously used as railway sidings bounded by raised railway embankments (Appendix 1). The railway lines appear to have been removed and the land which had been previously bare substrate allowed to naturally revegetate. The central area of former railway sidings appears to be fairly flat with embankments to the east and west, the whole forming man made topography within a wider relatively flat landscape. In one photograph is an area of what appear to be coal fines which have not revegetated.

5.0 Planning History pre December 1985

5.1 The land belonged to British Railways and was used as railway siding and goods yard, since at least 1955. It was allocated as Railway Land in the 1955 adopted County Borough of Barnsley Development Plan.

5.2 Whilst still under the ownership of the British Railway Property Board, Barnsley Metropolitan Borough Council submitted a planning application on 7th February 1985 for the reclamation of derelict land (planning application reference B/85/151/BA). At the time of the application the railway tracks appear to have already been removed and the site was redundant. A statement of works submitted with the application proposed site clearance comprising removal of rubbish and debris, demolition of any existing structures and foundations, surface regrading, creation of screen bank along western boundary of Shaw Lane, cultivation and sowing of grass seed, tree planting, and provision of footpaths. The proposed plan identified an existing footpath running east to west across the southern end of the site which was to remain unaffected.

5.3 Subsequently in accordance with Section 270 of the Town and Country Planning Act 1971 and the provisions of Regulation 4(5) of the Town and Country Planning Regulations 1976, the Planning Sub-Committee passed a resolution to carry out the development and planning permission was therefore deemed to be granted by the Secretary of State for the Environment, subject to conditions, on 21st March 1985.

5.4 The reclamation of the site had not yet begun when in October 1985 the Boulder Bridge Lane Trust acquired the land.

6.0 Purpose of Report

6.1 To reassess the application submitted by the landowner for a Certificate of Appropriate Alternative Development pursuant to Section 17 of the Land Compensation Act 1961 on the basis of the circumstances that prevailed on 10th December 1985.

7.0 Relevant Legislation and National Planning Policy

7.1 National Parks and Access to the Countryside Act 1949

The site adjacent to the west declared as a Statutory Local Nature Reserve on 13 June 1980 by Barnsley Metropolitan Borough Council under the National Parks and Access to the Countryside Act 1949 although the adopted plan is not available. The Site itself is now on Barnsley Council and Natural England's records as part of the Local Nature Reserve but there is no documentation available to indicate when or whether this was ever legally put into effect. However, as a consequence for the purposes of this report, the site is considered in 1985 to not to form part of the Local Nature Reserve.

7.2 Town and Country Planning Act 1971

Under Section 29 of the Town and Country Planning Act 1971 where an application is made to LPA for planning permission, that authority when dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The statutory presumption that applications should be determined in accordance with the development plan unless material considerations indicate otherwise, was introduced under S54A of the 1990 Act by the Planning and Compensation Act 1991 and so does not apply to this decision.

7.3 Town and Country Planning (Minerals) Act 1981 repealed 27.5.1997

Meaning of " development " .

(1) The following subsection shall be inserted after subsection (3) of Section 22 (meaning of "development" and " new development") of the Town and Country Planning Act 1971—

“(3A) For the purposes of this Act mining operations include— .

(a) the removal of material of any description— .

(i) from a mineral-working deposit;

(ii) from a deposit of pulverised fuel ash or other furnace ash or clinker ;
or

(iii) from a deposit of iron, steel or other metallic slags; and .

(b) the extraction of minerals from a disused railway embankment.”

The effect of this subsection is to confirm that the extraction of fuel deposits from the site comprising former railway land would be considered mining operations. As such, the relevant minerals policies are considered below.

7.4 DoE Circular 14/84 Green Belts published 4 July 1984

There is a general presumption against inappropriate development. In para 5 it states that it is particularly important that full use is made of opportunities for bringing back into use areas of neglected or derelict land. The Circular does not specify what is considered inappropriate development but instead in para 7 states that the previous two circulars relating to Green Belts are appended and that the policy advice contained within them remains valid.

MHLG Circular 42/55 published 3 August 1955 clarifies in para 5 that “ Inside a Green Belt, approval should not be given, except in very special circumstances, for the construction of new buildings, or for the change of use of existing buildings for purposes other than agriculture sport, cemeteries, institutions standing in extensive grounds, or other uses appropriate to a rural area”.

7.5 Local Planning Policy

7.6 1955 County Borough of Barnsley Development Plan

Site allocated as Land For Railway Purposes

7.7 South Yorkshire Structure Plan Written Statement and figure 5.1 Key Diagram– Approved by the Secretary of State for the Environment with modifications 19 December 1979.

7.8 Site allocated as Green Belt.

7.9 Policy V7

The County Council will use all relevant powers to ensure that the maximum amount of derelict land is reclaimed and that the creation of further derelict land is kept to a minimum.

Policy V8

New industrial development will not be permitted if it is not the right use of land in the public interest, taking account of all the relevant planning considerations including such matters as the effect on residential areas or town centres, nuisance or public health.

Policy V14

No development which would pollute existing or potential drinking water supplies will be permitted.

Policy V18

In the Green Belt development will not be permitted, except in exceptional circumstances, for purposes other than agriculture, forestry, recreation, cemeteries, and institutions standing in large grounds and other uses appropriate to a rural area.

The supporting text (to policy V18) states that extraction of surface minerals will be regarded as a use appropriate to a rural area.

Policy M1

Surface Mineral Workings will only be permitted when the operator is prepared to accept an agreed scheme of working which makes provision for adequate screening of the working, the minimisation of environmental problems, and for the mode of working.

Policy M2

Surface Mineral Extraction (other than open cast coal, pipe clay and fireclay) will normally be confined to areas already in operation and to extensions of such areas, which are acceptable in relation to agriculture, the environment and transport.

Policy M5

Opencast coal working(except by NCB) and surface mineral workings will only be permitted when the operator is prepared to accept and agreed scheme of working which makes provision for adequate restoration of the land. This restoration will be progressive where possible, will normally provide an

agricultural after use and, where feasible and compatible with the intended after use, will include the disposal of domestic, commercial and non-toxic industrial waste and colliery shale as an integral part of the scheme.

Policy R1

The highest priorities for local authority recreation provision should be schemes which:

- a) Provide urban open space, and indoor facilities, and schemes which
- b) Promote the full public use of existing or proposed facilities

Policy R2

New Recreation Facilities will be provided primarily to cater for the demands of South Yorkshires Residents

Policy R5

Subject to Policy R1, priority for local authority provision of informal countryside recreation facilities will be given to the provision of new inexpensive facilities.

Policy R7

Wherever possible, features which offer the best opportunities for informal countryside recreation will be safeguarded.

Policy T5

Applications for mineral working will not normally be approved, and applications for industrial development should not be approved, unless there is adequate access to a suitable highway. Encouragement should also be given to the use of rail and/or water transport where these are available.

Policy T7

Where practicable, pending any imposition of a mandatory system of heavy goods vehicle routes, restrictions will be imposed on heavy goods vehicles where they create environmental problems

Para 8.29 "Waste Disposal is not a key issue in this Structure Plan, largely because the waste disposal survey which the County Council is carrying out is not sufficiently advanced for waste disposal policies to be formulated"... The County Council intends to prepare a Waste Disposal Plan on completion of the survey, to provide a blueprint for the disposal of all waste in the County".

7.10 The paragraph above relates to the preparation of a Waste Disposal Plan as required by the Control of Pollution Act 1974. However, this section was repealed by the Environmental Protection Act 1990, and the County Council was abolished before a County Waste Disposal Plan was adopted. It is believed there are therefore no relevant waste disposal policies relevant to this site at the time the assessment is being considered.

8.0 Subsequent Planning Policy

8.1 The following development plan was adopted five months after the date set for this assessment and therefore shows the direction of travel for the policies for

the site. The development plan at this stage, whilst not yet adopted, would be likely to have some weight as a material consideration as it would have been at an advanced stage in the adoption process. The plan, being at a late stage at 10 December 1985, is presumed to have been substantially similar to that adopted.

8.2 Barnsley Urban Area Local Plan Adopted 14 May 1986

8.3 Allocated as Green Belt on Proposals Map
Allocated with Policies E1 and R1 on Proposals Map – Environmental Improvement and Recreation

8.4 Policy E1. It is proposed that the sites listed below and shown on proposals map will be environmentally improved. The proposed after use will be in accordance with those stated in policy R1 or policy E16.
- (xxv) Land at Boulder Bridge Lane, Carlton

Policy R1 Recreation– Open Space

The Borough Council will normally give first priority to recreational provision in the east Barnsley Recreation Project Area as defined on the proposals map and proposals within this area will be considered with particular regard to the recreational potential of the area. In accordance with this, the sites list below and on the proposals map will be environmentally improved during the plan period for open space/playing fields.

- (xxxiv) Land at Boulder Bridge Lane, Carlton

Policy E3 In the Green Belt, development will not be permitted, except in exceptional circumstances, for purposes other than agriculture, forestry, recreation, cemeteries, institutions standing in large grounds and other uses appropriate to a rural area.

Policy E4 Such development as is permitted in the Green Belt should take account in its scale and, nature and location, of the need to conserve the environment and wherever possible enhance it.

8.5 It is believed there were no strategic minerals or waste plans relevant to the site available at this time.

9.0 Consultations

9.1 Consultations were undertaken with specialist officers and their comments are summarised below which in some instances are the same as previously reported.

9.2 Highways

Access to the site could not be taken adjacent Shaw Dike Bridge due to poor highway visibility and acceptable visibility cannot be achieved to access the land to the south. As such, therefore, all of the land to the south of Shaw Lane could not be developed for any purpose unless an alternative means of

access could be found, or substantial improvement works carried out which would require additional land.

In terms of the land to the north of Shaw Lane, there was already access to the land to the north which could have been utilised so there would have been no objections in principle to any of the three options. The critical issue would have been the amount of vehicular movement. A nearby site had the number of vehicle movements per day limited, and providing this could be repeated, there would have been no objections to any of the options.

9.3 Regulatory Services

Policy V8 of the adopted South Yorkshire Structure Plan states that development will not be permitted if it is not the right use of the land in the public interest taking account of all the relevant planning considerations including such matters as the effect on residential areas or town centres, nuisance or public health.

There would have been major concerns with regards to potential nuisance being caused to nearby residents in terms of noise, dust, odour, light and insects. While mitigation is possible for these forms of nuisance, the land in question would have formed a buffer/barrier between residents and the adjacent uses at Boulder Bridge. Therefore developing on this land would bring the potential for nuisance closer to residential properties and unless comprehensive mitigation could negate these potential nuisances, this site would not be suitable for any of the three uses in principle.

9.4 Contaminated Land Officer

Contaminated land was not introduced as a material consideration until the Environment Act 1995 which inserted Part 2A of the Environmental Protection Act 1990.

Light Industry - No major concerns about the contamination of the land in question being developed for this use. Most of the land would be former railway land, and would have been made ground over the site, which might have some heavy metal contamination.

Extraction of Fuel Deposits- No concerns with regards to contamination issues – the contamination would be removed by this proposal.

Landfill - No significant concerns about this proposal, but the site is limited with capacity to landfill, as there was no large void in 1985 which needed backfilling.

9.5 Public Rights of Way

The site falls within what was the excluded area of the Definitive Map that covered Barnsley. The excluded area Definitive Map was not published until 1986 and therefore (unlike the rest of Barnsley) there was no legal document on which to show whether public footpaths did or did not exist in 1985 in this location.

The Excluded area Definitive Map (known as the Ex County Borough Map) in 1986 initially showed only 1 path. The remainder of the footpaths and bridleways on the map were researched and published in two stages between 1989 and 1992. It was (and is) not unusual that public access on BMBC owned land was allowed and encouraged without it being formally recorded on the Definitive Map.

In 2013 a Definitive Map Modification Order application was made to the Council for the footpaths along the railway line. DMMO applications can only be processed if the public's right to use a route has been called into question. For example, a planning application not showing a footpath alignment or in this case the physical blocking of existing stiles by the Boulder Bridge Trust preventing public access.

The 2013 DMMO application was on hold pending the Court's decision, but 15 out of the 21 user evidence forms received as part of this application show public use of the route prior to 1985.

If a planning application was made for this land in 1985 then (based on the current DMMO application) there was likely to have been evidence on the ground that the public had used the route. It is also likely that there would have been objection to any planning application if it blocked their used route, there may also have been a DMMO application made at that time (current legislation relating to DMMO's is Section 53 of the Wildlife and Countryside Act 1981). A diversion under the Highways Act 1980 or Town and Country Planning Act 1971 could have been applied for to enable implementation of a planning application. So the existence of a public footpath would not in itself have prevented a planning application from being granted consent; but it would have been an added complication, cost and time delay and there would have been no guarantee of success.

9.6 Biodiversity Officer

Photographs taken at the approximate date for the assessment appear to show an area previously used as railway sidings bounded by raised railway embankments (Appendix 1). The railway lines appear to have been removed and the land which had been previously bare substrate allowed to naturally revegetate, though the lack of bushes may indicate that scrub growth was controlled. The central area of former railway sidings appears to be fairly flat with embankments to the east and west, the whole forming man made topography within a wider relatively flat landscape. The site appears to be nutrient poor, with scrubby grassland and occasional bush. In one photograph is an area of what appear to be coal fines which have not revegetated.

The 1981 South Yorkshire Structure Plan is very sparse in relation to explicitly protecting wildlife and nature conservation value/ resources (the term 'biodiversity' did not come into regular use until after 1986). Species and

habitats do not seem to be mentioned at all. The strongest defence for wildlife appears to be policy V24 which states that:

‘...nature reserves will be safeguarded from any development which would result in their loss or damage or would adversely affect their appearance or character....’

The site would have its own ecological and biodiversity interest but is also abuts Carlton Marsh Nature Reserve and certain types of development would affect the reserve’s value. The greatest value of the (then) reserve is the wetland habitat offered to certain bird species, many of which try to avoid humans – which is why birdwatchers use bird hides to see wetland birds.

All of the mooted uses of the land would affect some of the bird value of the reserve during the construction phase. Many of the bird species would avoid coming to the site and would seek other wetland sites which would lead to increased competition and reduced breeding success. Some of those species are birds Of Conservation Concern in the UK such as the bittern. The land in question also offered a wildlife resource in its own right – both in terms of being a wildlife habitat (albeit a damaged one due to the former railway sidings that it had been) and supporting many species of animal, including lots of bird species. Some of the more mobile species such as birds, mammals and amphibians would move between the site and the reserve, so the site also acts as a conservation ‘buffer’ to other developments. Without seeing, for example, aerial plans of the site in 1985 I could not even start to evaluate the site’s wildlife value in its own right.

B1 or B2 uses could continue to affect the bird value of the reserve after construction and during normal operation of the developments, depending on exactly what those developments were. In particular, developments which are noisy or which have a high level of traffic/ people movements to/ around them will impact more on the types of species I referred to earlier. The closer to the original reserve the development is, the more the impact on the reserve would be. This has to be set in the context that the existing Boulder Bridge scrapyards complex would already have been quite noisy and with significant traffic movements.

Extraction of Fuel use could be an appropriate temporary use of the land even though some vegetation cover (and hence animals appearing, taking advantage of those habitats) will have occurred by natural means since the railway sidings ceased to be in operation (and would have been happening to some extent whilst they were still in operation). But recognising that coal fines were part of the product which had been spilt on the site meant it could have been deemed a fire hazard to some extent and so removing this risk may well have been seen to be desirable provided an agreed reclamation scheme was part of the planning permission. As well as having a detrimental effect on the wildlife on site which had already developed, the process would have affected particularly the bird value of the (then) Carlton Marsh reserve abutting the site. The reclaimed site could well end up having a greater biodiversity value than the original, unreclaimed site.

Landfill use would leave behind a reclaimed site offering some biodiversity habitat – usually created grassland, often with tree planting too. At that time, decision-makers tended to design landfill reclamations to ‘green up’ as fast as possible and many of the planting species would be highly competitive grasses and trees which could not provide high ecological value once established. Nonetheless, this ‘habitat’ would provide refuge and feeding opportunities for some common animals, including some common bird species. But the value would be massively inferior to the value that the site currently has, which is as a wildlife grassland (primarily) created by man. It was designed by BMBC Countryside Officers and used wildflower grassland seed sources.

Hence in summary, all of the planning application uses would impact on the value of that part of the reserve which was designated as LNR at that time. The impact would vary considerably depending on the exact development, its size and where on the site it was built. None of the developments would provide the wildlife resource and buffer which the current extension to the reserve provides.

Local Nature Reserves (LNRs) are a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949 by principal local authorities. LNR’s are designated both for their ecological value and for the robustness of that value which enables the general public to be able to view and interact with it through education, recreation, etc

10.0 Assessment

10.1 Principle of development

B1 and B2 Light and General Industrial purposes
Extraction of Fuel Deposit
Landfill

10.2 The site was allocated as Green Belt in the SYCC Structure Plan (approved by the Secretary of State in 1979) and the allocation remained the same in the Barnsley Town Plan of 1986 (adopted 14th May 1986).

10.3 DoE Circular 14/84 Green Belts notes that the essential characteristics of Green Belts are their openness and their permanence. The Circular confirms that the policy of the previous circular (14/55) remained valid and the only appropriate use of land within the Green Belt was as follows: “Inside a Green Belt, approval should not be given, except in very special circumstances, for the construction of new buildings, or for the change of use of existing buildings for purposes other than agriculture sport, cemeteries, institutions standing in extensive grounds, or other uses appropriate to a rural area”. This is repeated by adopted Structure Plan Policy V18.

10.4 B1 and B2 Light Industrial

B1 and B2 Light and General Industrial purposes suggested by the Trustees do not meet any of the appropriate uses set out in the Green Belt Circulars and would affect openness of the Green Belt and constitute encroachment into the Green Belt. There is a general presumption against development in the Green Belt and as such very special circumstances would be required in order for approval to be granted. No other material considerations have been provided which would constitute very special circumstances sufficient to outweigh this presumption against this type of development. As such the use of the site for B1 and B2 would therefore not be in compliance with Government Circular 14/84 and Policy V18 of the SY Structure Plan.

10.5 Extraction of Fuel Deposit

The extraction of fuel deposit constitutes a mining operation under the Town and Country Planning Act 1971 as amended by Town and Country Planning (Minerals) Act 1981 and is considered to be an appropriate use both for the Green Belt and for rural areas (text to Policy V18 of the adopted SY County Council Structure Plan), as minerals can only be extracted from where they occur. It is clear from the subsequent 1986 Barnsley Town Plan that there was an intention to improve this land, and Policy V7 within the SY Structure Plan intends that the maximum amount of derelict land is reclaimed in the SY Structure Plan area.

10.6 The Fuel deposit is a potential contaminant and its removal and subsequent restoration would help to achieve an environmental improvement of the site and enable the site to be restored to a suitable Green Belt use, in this case recreation. As such Structure Plan Policies V7, V18, M1 would all in principle support the extraction of this fuel deposit, providing that a suitable agreed scheme of working, screening of the operations and restoration is agreed.

10.7 Policy M5 of the Structure Plan again supports opencast working in principle subject to an agreed scheme of working and suitable progressive restoration of the land, normally to an agricultural afteruse.

10.8 In considering this policy and how it relates to this site, it is not considered that an agricultural afteruse would be appropriate in this case as the Barnsley Urban Area Local Plan adopted in 1986 identifies the site for environmental improvement and recreation, and, being adjacent to a pre-established LNR this is the end use that would be considered most appropriate.

10.9 Policy E4 of the adopted South Yorkshire Structure Plan is clear that development should conserve the environment and wherever possible, enhance it. Whilst the fuel extraction discussed above could be considered to cause damage to any pre-existing biodiversity or ecological interest, it would result in the removal of potentially contaminating material and lead to an overall improvement in the environment in accordance with the policy.

10.10 Policy M5 also states that where feasible and compatible with intended after-use the disposal of waste may be used for restoration. The written justification in the SY Structure Plan supporting this policy clarifies that most

after-uses require restoration to the original [pre-excavation] ground level and large amounts of fill would be needed to infill large voids. For this site, the deposit of waste would not be considered either feasible or compatible with the intended end use as the removal of the fuel deposit from disused railway land and subsequent backfilling with the remaining material (once the fuel was removed) would not result in a significant void which would be need to be filled with domestic, commercial and non-toxic industrial waste. This is borne out by the subsequent planning permission granted in 1986 for the extraction of fuel deposit and restoration to form an extension to Carlton Marsh Nature Reserve adjacent, which did not require additional wastes to be imported to the site in order to restore it.

10.11 The excavation of the fuel deposit would be considered acceptable in principle providing it would remove the potential source of contaminants on the site and the site would be subsequently improved in environmental terms with a restoration to recreation use. Any such consent would be subject to appropriate planning conditions limiting the timescale for the extraction period and requiring appropriate restoration and aftercare to recreation use.

10.12 Landfill

In applying for a Certificate of Alternative Appropriate Development, the Trustees have suggested landfill as a standalone use, not as restoration following extraction of fuel deposit. As such, landfill will be considered on its own merits.

10.13 In considering landfill, the approved SY Structure Plan does not address waste, and it appears that there were no other adopted policies that could aid the assessment of a standalone waste proposal. As such the Local Planning Authority is unable to determine if landfill is an acceptable use in Local Policy terms as a standalone use in the Green Belt as suggested by the Trustees.

10.14 Landfill is not identified in the DoE Circular 14/84 Green Belts or the previous MHLG Circular 42/55 Green Belt criteria as an appropriate land use within the Green Belt and very special circumstances would therefore need to be demonstrated in order for approval to be given. A stand alone landfill in this location would not involve filling a void but would effectively be tipping by land raising. This is not a use appropriate for a rural area or one that would preserve openness. It is therefore considered that it would fall under the general presumption against development in the Green Belt.

10.15 As such, any proposals for landfill in this location would have to be considered on their own merits, subject to national policies pertaining at that time and subject to local policies relating to the impact that a landfill use may have. Where there is a general presumption against development in the Green Belt as in this case, very special circumstances would be required in order for approval to be granted.

10.16 The adopted Structure Plan does support landfill in the restoration of mineral sites where there is a substantial void but Policy M5 is not relevant in this

case is not relevant in this case as already discussed in 10.10 above. Landfill would introduce contaminants which could have a significant negative effect on the site and on Carlton Marsh Nature reserve adjacent. As there would be no void, the landfill proposed would therefore be land raising, causing a negative effect to visual amenity and landscape character of the site, it would affect the openness of the Green Belt, and potentially affect the adjacent Carlton Marsh Nature Reserve due to increased runoff and other negative impacts and effects further detailed below.

- 10.17 Policy E4 of the adopted South Yorkshire Structure Plan is clear that development should conserve the environment and wherever possible, enhance it. Whilst the fuel extraction discussed above could be considered to cause damage to any pre-existing biodiversity of ecological interest, it would result in the removal of potentially contaminating material and lead to an improvement in the environment in accordance with the policy. The opposite is true of landfill, which would be likely to introduce a potential source of contaminants. The vehicular movements associated with importing waste, and the attendant noise, dust, odour and other potential public health and amenity concerns associated with importing waste would be unlikely to be considered acceptable, contrary to Policy V8 of the approved Structure Plan.
- 10.18 It is considered that landfill would not help improve the area and would not be appropriate adjacent to a Local Nature Reserve. Furthermore, landfill would extend the period of time before the site could be restored for recreational purposes due to settlement times.
- 10.19 Additionally, taking into account the photographs of the site as set out in Appendix 1, it is reasonable to assume that it had some ecological/biodiversity value at that time.
- 10.20 The site was designated as a site for Environmental Improvement/Recreation in the 1986 Barnsley Urban Area Local Plan. It is reasonable to assume therefore that the ecological/biodiversity interest had increased since the land became disused and it is considered that the importation of any wastes to the site with the attendant risks of ground pollution and water pollution via leachate and air pollution through landfill gas would introduce potential pollutants to the site and the adjacent Carlton Marsh.
- 10.21 No other material considerations have been provided which would constitute very special circumstances sufficient to outweigh this presumption against this type of development. As such the use of the site for landfill would therefore not be in compliance with Government Circular 14/84 and Policy V8 and E4 of the adopted Structure Plan.
- 10.22 There is no evidence that any other land outside the CPO area is likely to be forthcoming which would enable any other development to be deliverable. The assessment has therefore been limited to the land identified in the CPO.

11.0 Biodiversity

- 11.1 The Biodiversity Officer considers that all of the proposed alternative uses would impact on the value of the site and the adjacent local nature reserve. The impact would vary considerably depending on the exact development, its size and where on the site once complete it was built. None of the developments would provide the wildlife resource and buffer which the current extension to the reserve provides.

12.0 Landscape and Visual Impact

- 12.1 The site lies within the Lower Dearne Lowland River Floor which is characterised by flat valley floors, water in the form of lakes, rivers, reservoirs and canals with scarce residential settlement of the valley floors. Commercial development is quite common next to roads that cross valleys, other characteristic features include evidence of past industrial development including, dismantled railways, reclaimed land and discussed canals, trees, woodland and scrub dominated by species associate with wet ground. The strength of character in 1985 would be considered to be moderate, and the sensitivity to further built development would be judged to be high and the landscape capacity considered to be low. Disused railway lines have the potential with proper management to act as important wildlife corridors, and adoption of this site as a Local Nature Reserve and its subsequent allocation for Environmental Improvement and Recreation in the adopted 1986 Barnsley Urban Area Local Plan indicate that the Councils continuing objectives for the site were to conserve and enhance this landscape. The Structure Plan had several policies to encourage the reclamation, use and improvement of the environment in the countryside, namely policies R1, R2, R5 and R7 which intended to safeguard such sites and to improve the environment for recreation. The use of the land by any of the proposed alternative uses would have been likely to result in a loss of the important wildlife corridors that had been established on this site but the removal of the potential contamination by fuel deposit and subsequent restoration would help to improve the soil and groundwater environment of the site, and an appropriate restoration scheme to recreational use would improve the nature and wildlife interest and help to enhance the visual amenity of the nearby residential dwellings, although substantial mitigation may have been able to alleviate this impact to an acceptable degree.

13.0 Highways

- 13.1 In accordance with Policy T5 of the SY Structure Plan any of the appropriate alternative use of the land proposed would need to be served by a suitable access for both personal and Heavy Goods Vehicles. The Highways Officer considers that the CPO site to the north of Shaw Lane has an existing safe and adequate access, which could be used for any of the three proposed alternative appropriate uses.

13.2 However, the Highways Officer considers that access to the site to the south of Shaw Lane could not be taken adjacent Shaw Dike Bridge due to poor highway visibility and it is considered that acceptable visibility cannot be achieved to access the land to the south. As such, therefore, all of the land to the south of Shaw lane could not be developed for any purpose unless an alternative means of access could be found, or substantial improvement works carried out which would require additional land. It is likely that HGV numbers and/or routeing would be controlled in accordance with South Yorkshire Structure Plan Policy T1.

14.0 Pollution Control

14.1 The removal of the fuel deposit which is a potential pollutant would improve the environment in the area, but the introduction of landfill could result in the introduction of pollutants to the area in the form of leachate, landfill gas and soil and water pollution which may affect both the site and the adjoining Carlton Marsh Nature Reserve.

15.0 Regulatory Services

15.1 Development would be expected to demonstrate that it is not likely to result in unacceptable affects or cause nuisance to the natural and built environment or to people, whether directly or indirectly.

15.2 Using the land for any of the three suggested uses would have the effect of moving the nuisance effects of the existing Boulder Bridge operations closer to the nearby residential dwellings. It would also be likely that any of the three suggested uses would additionally also raise potential major nuisance issues to these nearby residents in terms of noise, dust, odour, light and insects. Unless comprehensive mitigation could negate these potential nuisances this site would not be suitable for any of the three uses in principle, and would not be in accordance with South Yorkshire Structure Plan Policy V8.

16.0 Conclusion

16.1 At the date identified for the purposes of this assessment (10 December 1985), the Local Planning Authority is required to have regard to the development plan and to have regard to other material considerations. There is no presumption in favour of development. Material considerations in this case include relevant Legislation, Government Circulars, policies within Structure and Local Plans and site specific matters. In this case site specific material planning considerations include but are not limited to the potential impact on the adjacent nature reserve, the landscape character of the area, highways, potential impact on amenity of nearby residents.

- 16.2 In the Green Belt development will not be permitted for purposes other than agriculture, forestry, recreation, cemeteries, and institutions standing in large grounds and other uses appropriate to a rural area. The suggested appropriate alternative uses of B1 and B2 and landfill uses contravene paragraph 5 of circular 42/55 and Policy V18 of the SYCC Structure Plan and would fall within the general presumption against inappropriate development in the Green Belt (Paragraph 1 of Circular 14/84), and would therefore require exceptional circumstances in order for approval to be granted. B1 and B2 uses are not appropriate uses for a rural area in the Green Belt. Landfill may be appropriate in a rural area if there is a significant void to be filled in, but that is not the case here. The risk of pollution of both the site and adjacent designated Local Nature Reserve is considered to be a material consideration, as is the attendant change in landform which would result from landfill/landraising in this location.
- 16.3 It is considered that these proposed alternative uses on this site would constitute encroachment within the countryside and would have an adverse impact on the openness of the Green Belt and would not serve the objectives for identifying Green Belt land. Additionally it is considered the suggested uses would not retain or enhance the landscape character or conserve and enhance the natural environment for recreation (Policy V19 of the SYCC Structure Plan)
- 16.4 Added to the general presumption against inappropriate development in the Green Belt as set out in para 1 of Circular 14/84, the proposed alternative uses would not conserve or enhance the biodiversity features of the site but would cause significant harm to the land which is adjacent Carlton Marsh Reserve.
- 16.5 There would additionally be harm to visual amenity and nuisance due to the close proximity of residential dwellings but this may in principle be mitigated with comprehensive mitigation schemes.
- 16.6 Landfill may not be inappropriate development in the Green Belt if it involves the filling in of a significant void (policy M5 of the SYCC Structure Plan), and there will have been some need for landfill in the borough. However, there is no existing significant void which requires filling and the site is unlikely to have been identified as a site suitable to a need for waste disposal. Additionally, the importation of any wastes would introduce the risk of contaminants, ground pollution and water pollution via leachate and air pollution through landfill gas both to the site and the adjacent Carlton Marsh Nature Reserve which could have a significant negative effect on the biodiversity and ecology of the nature reserve and the site itself which is intended for recreation and open space.
- 16.7 All three of the proposed alternative uses would have no significant adverse effects in terms of Highways to the north of Shaw Lane only, but that access to the South of Shaw Lane would be unacceptable in Highways terms without including more land. In addition, whilst footpaths would be affected by

any development, there are legal procedures that enable footpaths to be stopped up or diverted.

- 16.8 The Local Planning Authority has assessed the material planning considerations for all the proposed appropriate alternative uses suggested by the Trustees and have determined that in considering the suggested alternative appropriate uses of B1 and B2 uses and landfill, very special circumstances do not exist and would not constitute alternative appropriate uses for this site as suggested by the landowner.
- 16.9 In respect of the extraction of fuel deposits it is considered that this constitute an alternative appropriate use. Mineral extraction is not an inappropriate use in the Green Belt and extraction of fuel deposits would additionally remove contaminated material and result in an overall improvement to the site. Although not mentioned in national or local policy as an appropriate use, mineral extraction is identified in the written justification of the adopted SY Structure Plan as being suitable for rural areas. The proposal would of necessity be limited in both scale and duration and would result in the removal of a potential polluting material. Any consent would be made subject to appropriate planning conditions limiting the timescale for the extraction period and requiring appropriate restoration and aftercare to recreation use which would enhance the site.
- 16.10 Although the quality of the restoration in terms of ecology or biodiversity may be no better than that provided by landfill, the landform would be more appropriate and the removal of the fuel deposit followed by suitable restoration and aftercare to recreation use, would also safeguard the biodiversity and ecology of the site and the adjacent nature reserve. The extraction of fuel would be in accordance with a number of policies of the SY Structure Plan and the Circulars on Green Belts.
- 16.11 Taking all the above into account, it is considered that this could constitute very special circumstances to satisfy Circular 14/84 and 42/55 and which would allow the grant of permission. The extraction of fuel deposit would therefore constitute an appropriate alternative use.

17.0 Other Possible Appropriate Alternative Development

- 17.1 In assessing whether any other uses not suggested by the Landowner are considered to be Appropriate Alternative Development, the Local Planning Authority must consider any relevant material planning considerations. The SY Structure Plan allocates the land as Green Belt land. The DOE and MHLG Circulars and the approved South Yorkshire Structure Plan identifies agriculture sport, cemeteries, institutions standing in extensive grounds, or other uses appropriate to a rural area buildings for agriculture and forestry as being appropriate uses. As such many uses including but not limited to: shops, financial and professional institutions, food and drink establishments, hotels and many other commercial, residential, and industrial uses, are inappropriate development in the Green Belt and would require very special

circumstances to be allow consent to be granted. Additionally, some weight would be given to the emerging Barnsley Urban Area Local Plan (Adopted 14 May 1986), which allocated the site for Environmental Improvement and Recreation. Taking into account these material planning considerations, plus the fact that the land is adjacent to the designated Carlton Marsh Nature Reserve, whilst any other potential uses may not constitute inappropriate development in the Green Belt, in the opinion of the Local Planning Authority, the development of the site for any other use would not be acceptable due to the harm that would be caused to the biodiversity and ecology interests.

18.0 Recommendation

- 18.1 That the Head of Planning and Building Control issues an addendum to the S 17 Certificate confirming that if the land subject of the application for a Certificate of Appropriate Alternative Development were not acquired by the Barnsley Metropolitan Borough Council in exercising its Compulsory Purchase Powers, planning permission would **NOT** have been granted for any development other than for the extraction of fuel deposits.

19.0 **Proposed Conditions**

1. The development for which permission is hereby granted shall be begun within a period of 3 months from the date of this permission
Reason: In the interests of visual amenity of the locality
2. Following completion of the fuel reclamation operation the site shall be restored in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority within 6 months of the date of the permission hereby approved. Thereafter the restoration of the site shall be implemented in accordance with the approved document.
Reason: In the interests of visual amenity of the locality
3. The development, including the restoration of the site referred to in condition 2 above, shall be completed within a period of 3 years from the commencement of the development.
Reason: In the interests of visual amenity of the locality
4. The use hereby approved shall be carried out only between the hours of 7.00am to 7:00pm on Mondays to Fridays 7:00am to 12:00 noon on Saturdays, and at no time on Sundays or Bank Holidays.
Reason: To safeguard the amenities of nearby residents
5. An equivalent continuous sound pressure level (Leq) of 80 dBA shall not be exceeded as measured on slow response over any 1 hour period at any part of the boundary of the site.

Reason: To safeguard the amenities of nearby residents

6. An equivalent continuous sound pressure level (Leq) of 75dBA shall not be exceeded as measured on slow response over any 3 hour period at any part of the boundary of the site.

Reason: To safeguard the amenities of nearby residents

7. An equivalent continuous sound pressure level (Leq) of 68dBA shall not be exceeded as measured on slow response over the full working day, 7:00 am to 7:00 pm at any part of the boundary of the site.

Reason: To safeguard the amenities of nearby residents

8. All reasonable measures shall be taken to control dust emissions, and main haul roads shall be sprayed with water during periods of dry weather, to the satisfaction of the Local Planning Authority.

Reason: In the interests of amenity.

9. Wheel cleaning facilities shall be installed within the confines of the site and all vehicles shall be routed through them before entering the public highway.

Reason : In the interests of highway safety

10. There shall be no excavations within 3 metres of any watercourse, public foul sewer or surface water sewer which crosses or adjoins the site without the prior written consent of the Local Planning Authority.

Reason: To safeguard the proposer drainage of the area

20.0 Background Papers

DoE Circular 14/84 Green Belts

MHLG Circular 42/55

1955 County Borough of Barnsley Development Plan

South Yorkshire County Council Structure Plan and Written Statement)
adopted 19 December 1979

Barnsley Urban Area Local Plan (adopted 14 May 1986)

Appendix 1 Photographs of the Site

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Tel: 01226 774731

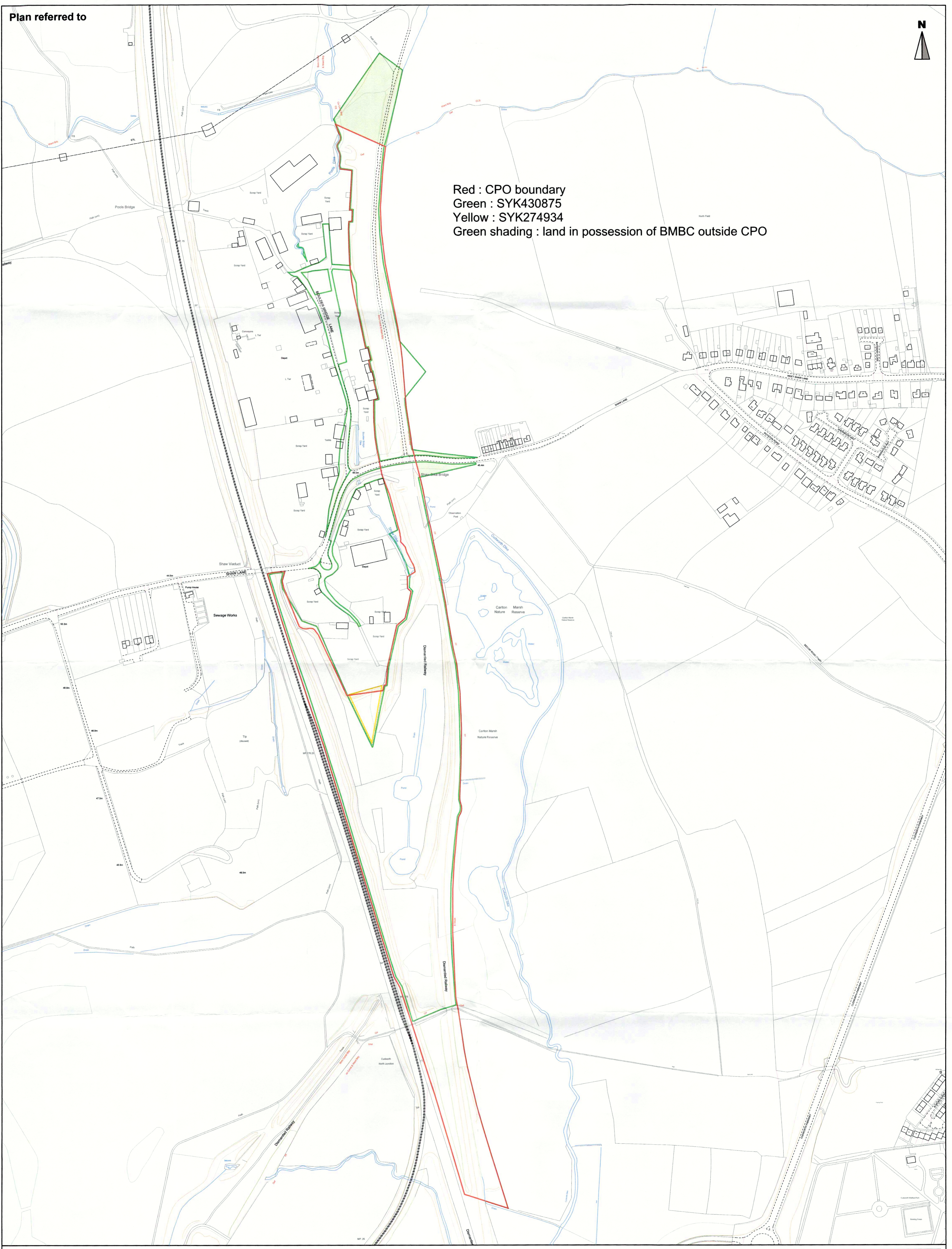
Date: 23rd February 2016

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Plan referred to



Red : CPO boundary
 Green : SYK430875
 Yellow : SYK274934
 Green shading : land in possession of BMBC outside CPO



<small>Reproduced from the Ordnance Survey Map with the permission of the Ordnance Survey Office. All other Copyright, Unauthorised reproduction or distribution is prohibited.</small>	
Drwg no: SH5152b	Drawing Title :
Date: 05/12/2014	
Scale 1: 2,500	

CARLTON MARSH NATURE RESERVE


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Item 6

Report Ref No:

Report of the Head of Planning
& Building Control to the
Planning & Regulatory Board
on 23rd February 2016

CROSS BOUNDARY PLANNING APPLICATION AT THE FORMER OUGHTIBRIDGE PAPER MILL, SHEFFIELD.

1. Purpose of report

This report seeks the approval of Planning & Regulatory Board pursuant to Section 101(1)(b) of the Local Government Act 1972 to delegate its decision making functions as local planning authority to Sheffield City Council in respect of the determination of a forthcoming outline planning application and planning related activities, including negotiation of the terms of the S106 agreement (including any subsequent deeds of variation) and monitoring and enforcement thereof as well as any subsequent application for the approval of the reserved matters, S73 applications, non-material amendments and applications for the discharge of planning conditions for residential development at the Former Oughtibridge Paper Mill site in Sheffield (postal address). The boundaries of the proposed site are edged red on the attached plan.

2. Recommendation

That, subject to the Council retaining the ability to submit consultation responses, Planning Regulatory Board authorises the delegation to Sheffield City Council pursuant to Section 101(1)(b) of the Local Government Act 1972 of the Council's decision making functions as local planning authority for a forthcoming outline planning application and planning related activities relating to land edged red on the attached plan, including negotiation of the terms of the S106 agreement (including any subsequent deeds of variation) and subsequent monitoring and enforcement thereof as well as any subsequent application for the approval of the reserved matters, S73 applications, non-material amendments and applications for the discharge of planning conditions.

3. Background

The Site is a former paper mill and comprises a number of significant existing buildings and areas of cleared land. Some buildings have been demolished, but a substantial proportion of buildings still remain. The Site is located to the north-west of Sheffield but includes land which falls within the administrative boundaries of both Sheffield City Council (SCC) and Barnsley Metropolitan Borough Council (BMBC). The River Don divides the site and defines the administrative boundary between the two authorities.

The part of the Site which lies within the administrative boundary of SCC lies to the south of the River Don and is allocated as a General Industrial Area

(without Special Industries) in the Sheffield Unitary Development Plan. That part of the Site which lies within the administrative boundary of BMBC is designated as Green Belt on the UDP Proposals Map. In the recent Local Plan Additional Site Consultation the site was shown as a housing site option in recognition of the fact it could support Sheffield in meeting its own housing needs within the north west of the city.

On 19th January 2016 the Council received a request for a screening opinion in relation to a proposed residential development. This is a precursor to a planning application being submitted. Based on the request for a screening opinion, the application will include the demolition of the existing buildings on the site and propose the development of up to 320 residential units, two new river crossings, car parking, public open space, landscaping, associated infrastructure and drainage, and other associated works. A proposed indicative layout is included within Appendix A.

The site is not within or adjacent to a Site of Special Scientific Interest (SSSI) but is adjacent to an Ancient Semi-Natural Woodland (Wharncliffe Wood), which also forms part of a Local Wildlife Site. Details have been submitted detailing that the development would not directly impact on any of those trees within the development. The application could also include management of the woodland to enhance its value in addition to a 'buffer zone'. Based on this and a range of other factors, both Sheffield City Council and our own officers have concluded that the proposal would not require an Environmental Impact Assessment.

National Planning Practice Guidance indicates that where a site which is the subject of a planning application straddles one or more local planning authority boundaries, the applicant must submit identical applications to each local planning authority, which the applicant will do. However, under Section 101 of the Local Government Act 1972, a local authority may arrange for the discharge of any of their functions by any other local authority. Any arrangements made under this section do not prevent the authority by whom the arrangements made from exercising those functions should it so decide at a later date.

4. Proposal and justification

Following discussions with Sheffield City Council and the applicant it is considered that the best way to deal with this proposal is for Barnsley to delegate its functions in respect of the determination of the planning application to Sheffield City Council. In doing so, it is considered reasonable to transfer the bulk of the planning fee (90%) to Sheffield to reflect the fact they will be responsible for the vast majority of the work. The 10% retained by BMBC will cover our costs associated with preparing this report, carrying out publicity and providing a consultation response.

The reason for this is that whilst the Barnsley part of the site lies within the Green Belt, the site is brownfield. The final bullet point of paragraph 89 of the NPPF states that the construction of new buildings in the Green Belt will not be inappropriate if it comprises;

"limited infilling or the partial or complete redevelopment of previously developed, sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater Impact on the openness of the Green Belt and the purpose of including land within it than the existing development".

It is clear from this exception that the proposed development will not constitute inappropriate development provided it would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. This is a matter for the determination of the planning application but the details that accompanied the screening opinion confirm that the intention is to submit an application that does not constitute inappropriate development in the Green Belt. If this is the case, then the planning application would not require referral to the Secretary of State for this reason. In addition, subject to providing sufficient mitigation to ensure that the biodiversity value of the adjacent Local Wildlife Site is conserved and enhanced as well as ensuring compliance with other policy requirements (flood risk), there would be no conflict with the adopted UDP & Core Strategy. Sheffield City Council will have regard to any conditions or clauses within a S106 agreement recommended by Barnsley in a consultation response having regard to our development plan and all other material considerations. Given the fact the site is so remote from settlements within Barnsley itself, it is considered logical for Sheffield to determine the application on our behalf.

The alternative would be for both authorities to determine the application. However, this can lead to two LPAs making individual determinations, imposing different conditions on the permissions. Accordingly, this is not recommended as it does not promote a coordinated approach to development control and would be an inefficient use of resources. It is also contrary to the overall tenor of Government guidance, which encourages joint working and ongoing co-operation between LPAs.

5. Implications for local people / service users

Whilst part of the site is within Barnsley, it is remote from other residential properties and services within the borough. If the decision is delegated to Sheffield City Council, they will consult Barnsley and officers will consider the impact on residential amenity and local infrastructure when responding to the consultation. However, it is unlikely that the scheme will have any impact on the amenity of Barnsley residents or place undue pressure on infrastructure within the Borough because it is accessed via the Sheffield road network and the site would be within the catchment area of Sheffield schools. In addition, it is expected that refuse collection will be carried out by or on behalf of Sheffield City Council albeit paid for by Barnsley from the Council tax revenue generated from the site.

6. Financial implications

As the larger part of the site is within the Barnsley borough, the whole planning fee is payable to Barnsley MBC. Following an assessment of the likely workload, it is considered that input from Barnsley will constitute no more than 10% of the overall cost associated with determining the application and carrying out the related activities. Accordingly, it is proposed to pass on

90% of the planning fee to Sheffield should decision making be delegated to them.

7. Employee implications

Delegating the application to Sheffield will ease the burden on officers within Barnsley ensuring that they are able to focus their attention on their remaining workloads ensuring that they are more likely to meet performance targets.

8. Compatibility with the European Convention on Human Rights

The proposals in this report are compatible with Convention Rights.

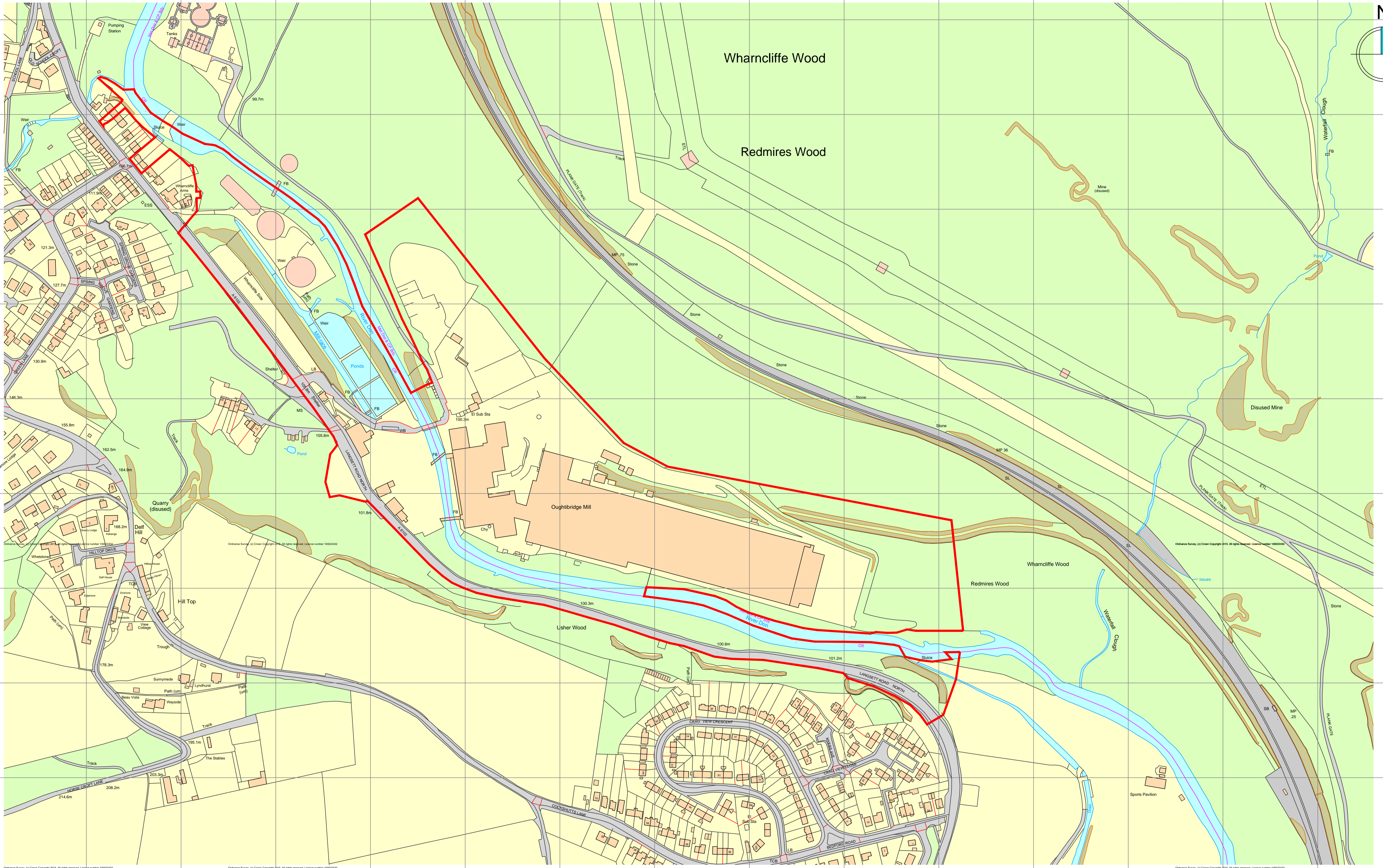
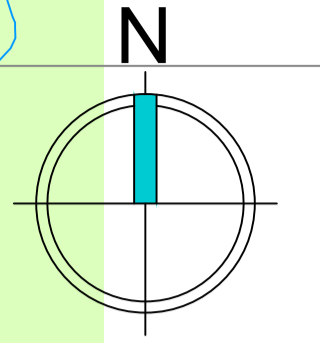
9. List of appendices

Appendix 1 – Proposed location plan and indicative layout plan.

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Date: 10th February 2016



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Revision notes:		Revision:	
Rev:	Date:	Revision:	
A	24.11.15	Redline updated following issue of title plans	

Drawing Number: OS.03	Client: CEG
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Project: Oughtibridge Mills	Drawing Title: Location Plan
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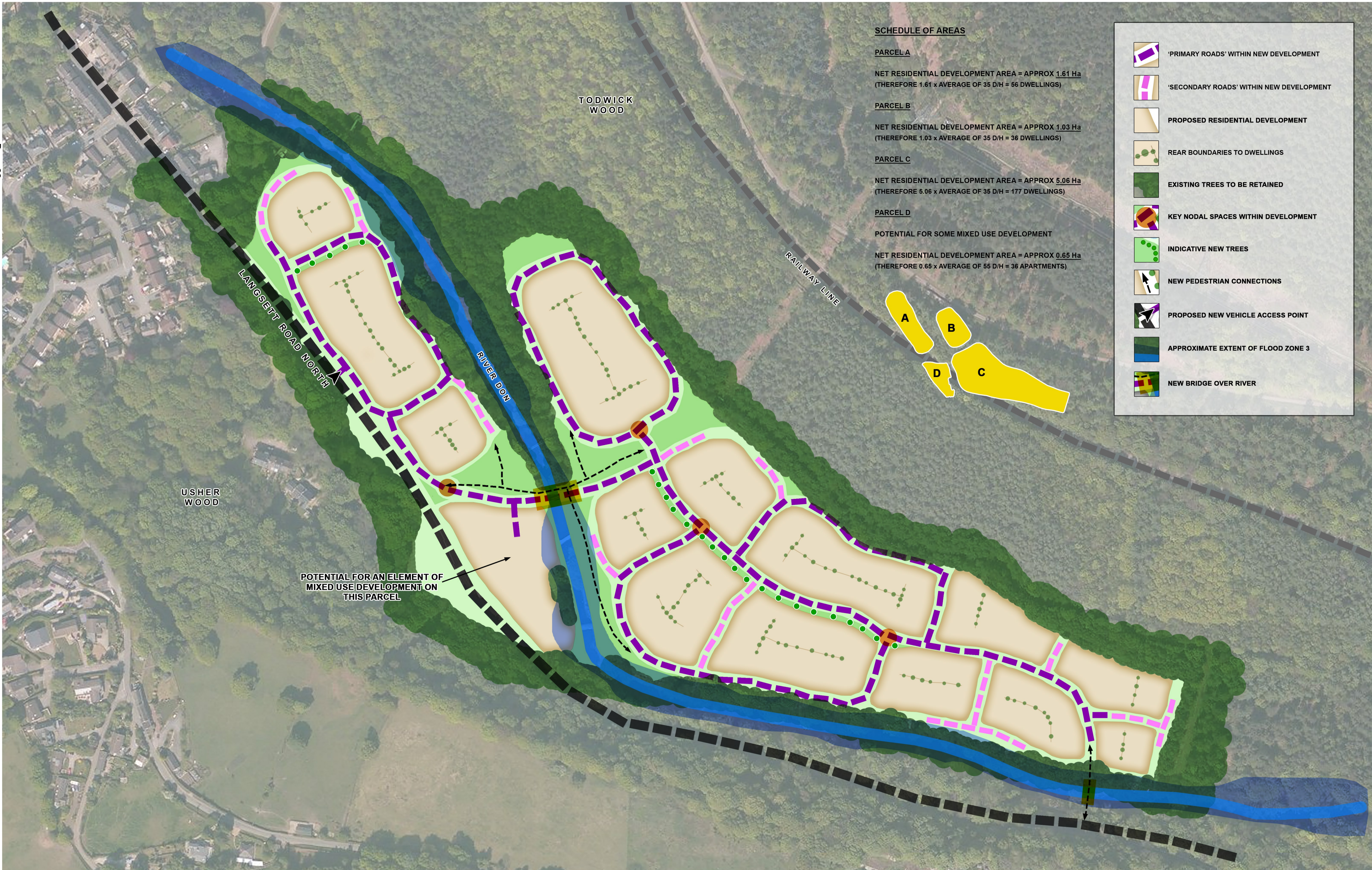
Date: November 2015	Scale @ A1: 1:2000
Revision: A	

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POTENTIAL FOR AN ELEMENT OF MIXED USE DEVELOPMENT ON THIS PARCEL



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Item 7

Report Ref No:

Report of the Head of
Community Safety &
Enforcement & the Head of
Planning & Building Control to
the Planning & Regulatory
Board on 23rd February 2016

PLANNING COMPLIANCE POLICY

1. Purpose of report

This report seeks approval to adopt a Planning Compliance Policy.

2. Recommendation

That Planning Regulatory Board approves the Planning Compliance Policy for recommendation to the Council.

3. Background

The effective and proper enforcement of planning control is essential to protect the local environment and the interests of residents, visitors and businesses in the borough from the harmful effects of unauthorised development.

The planning system seeks to regulate the development and use of land in the public interest.

It is recognised that there is a need for a Planning Compliance Policy in order to enable officers to make decisions about planning issues in a consistent and informed manner and to enable a more structured approach to the process. The attached policy has been formulated in conjunction with the Development Management Services and Legal Services.

The policy sets out the council's policy for the enforcement of planning control within the borough and has been informally approved by Cabinet on 13th January 2016.

4. Proposal and justification

The proposal is to implement the Planning Compliance Policy as soon possible in order to give guidance and direction to employees that deal with planning enforcement work.

5. Implications for local people / service users

The Policy will provide information for local people and service users with respect to how planning control issues raised with the council will be prioritised and addressed.

6. Financial implications

There are no financial implications.

7. Employee implications

Employees who deal with planning enforcement issues will be better informed and directed as to how to address planning enforcement issues.

8. Compatibility with the European Convention on Human Rights

The proposals in this report are compatible with Convention Rights.

9. List of appendices

Appendix 1 – Planning Compliance Policy

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Date: 27th January 2016

BARNSLEY METROPOLITAN BOROUGH COUNCIL

PLANNING COMPLIANCE POLICY



Barnsley Metropolitan Borough Council

**Community Safety and Enforcement Service
Development Management Service
Legal Services**

1. INTRODUCTION

The purpose of this policy is to set out the council's approach to planning compliance and the delivery of planning enforcement functions.

Planning law is intended to control the development and use of land and buildings in the public interest. The council's assessment of 'harm' cannot include private interests, such as potential loss of value to a property, commercial competition, loss of view, trespass or breach of covenant.

The need to secure planning compliance or to subsequently take enforcement action can only be considered where the 'Building Works' or 'Material Change of Use' being undertaken require planning permission.

The Planning and Compensation Act 1991 introduced time limits within which local planning authorities can take planning enforcement action against breaches of planning control. The time limits are:

- Four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially complete.
- Four years for the change of use of a building, or part of a building to use as a single dwelling. Enforcement action cannot be taken once the unauthorised use has continued for four years without any enforcement action being taken.
- Ten years for all other development. The ten year period runs from the date the breach of planning control occurred.

Carrying out works or changing the use of land or buildings without planning permission is not an offence. The council has discretionary powers to take action. In most cases people will be given the opportunity to apply for retrospective planning permission. However, where serious harm is being caused to the way that people live, the council will take robust enforcement action with a view to alleviating the harm.

The council must operate its enforcement activities in accordance with Government guidelines, council policy and procedures, the Enforcement Concordat, and the Regulators' Compliance code.

- The council must consider if the breach of control unacceptably affects public amenity and/or the existing use of land or buildings meriting protection in the public interest.
- Enforcement action is discretionary and so the council is not required to take action in every instance, however the particular circumstances of each case will always be considered.

- The council will not normally take formal action for minor breaches that cause no real harm.

2. COMPLAINTS

Complaints about alleged breaches of planning control will be accepted by letter, email, via the council's web site, or by telephone. In order for officers to effectively investigate complaints, certain information is required. Complainants will therefore be asked to provide specific details of their complaint on a 'planning request service form' (Appendix 1).

If on initial receipt of a complaint it is obvious that the complaint is not a planning matter or there is deemed to be no breach of planning control, the complainant will be notified. If the reported breach relates to a function or activity enforced by another council service the complaint will be forwarded to the relevant department.

Anonymous complaints may not be considered, as it is often not possible to investigate these due to lack of witnesses or evidence and the harm is difficult to determine. However, each complaint will be assessed and depending on the circumstance there may be occasions when anonymous complaints will be investigated.

3. ENFORCEMENT PRIORITIES

The council receives approximately 700 planning enforcement complaints each year.

In light of the often lengthy and complex nature of planning enforcement investigations, and to make the best use of limited resources, it is necessary to give priority to those cases where the greatest harm is being caused. Priorities are directed by the significance and impact of the breach, the level of harm caused and the need to react expeditiously.

The following sets out the council's priorities for investigating alleged breaches of planning control. The enforcement process is closely regulated by legal procedures, planning legislation and government guidance. This provides the framework for council's enforcement priorities.

As an investigation of a particular case proceeds it may become necessary to change the priority level.

PRIORITY 1

- Unauthorised activity to listed buildings (demolition/alteration/disrepair)
- Unauthorised demolition in a conservation area
- Unauthorised development in the green belt

- Works to trees covered by a Tree Preservation Order or in a Conservation Area
- Development causing immediate/irreparable harm to protected ecology or causing serious danger to the public

PRIORITY 2

- Operational development already in progress
- Development which is potentially immune from enforcement within 6 months
- Development causing serious harm to amenity
- Breaches of condition/non compliance with approved plans causing serious harm

PRIORITY 3

- Other operational development which is complete
- Changes of use resulting in some harm to amenity
- Breaches of condition/non compliance with approved plans causing no serious harm to amenity

PRIORITY 4

- Advertisements
- Changes of use, resulting in little or no harm to amenity
- Untidy land resulting in little or no harm to amenity
- A trivial or technical breach of control, which causes little or no harm to amenity or the environment

4. ENFORCEMENT OPTIONS

Powers to enforce planning controls are contained within the Town and Country Planning Act (as amended), the Planning and Compensation Act 1991 and the Control of Advertisements Act 1969 (as amended).

In deciding whether to take enforcement action the council will have regard to the development plan and any other material considerations including national policies on planning and enforcement as expressed through the National Planning Policy Framework and National Planning Practice Guidance.

The council will only take enforcement action when it is considered expedient to do so (having regard to the provisions of the development plan and any other material considerations) and where such action is considered necessary in the public interest. In taking enforcement action the council will act in a proportionate way and be prepared to use all of the enforcement powers available commensurate with the severity of the breach.

The European Convention of Human Rights confers rights that are embodied in the Human Rights Act 1998. It would be unlawful for the council to act in a way that is incompatible with a Convention right.

Option 1 - No further action

The council may, following initial investigation decide that there has been no breach of planning control, or that the breach is minor or insignificant in nature, or that there is insufficient evidence, or that it is not in the public interest or expedient to pursue the matter.

The council would refrain from initiating enforcement action where the development is considered acceptable on its own planning merits and where formal action would solely regularise the development.

Option 2 - Further investigation required

It may be necessary to carry out further investigations from the initial site inspection to determine whether a breach of planning control has occurred. This may involve additional site inspections, research, seeking advice from other services or agencies or further information from the complainant, site owner or other parties.

In certain cases, the council may request the person reporting the suspected breach of planning control to assist with the investigation by providing a written log detailing the dates, times, duration and nature of the suspected breach. If the person reporting the suspected breach of planning control is unwilling to assist, they will be advised that this may result in the council not being able to pursue the investigation due to insufficient evidence being available.

Option 3- Negotiate a solution

In situations where it has been established that a breach of planning control has occurred but that the harm can potentially be mitigated, the council will normally attempt to negotiate an acceptable solution to regularise the breach of planning control without recourse to formal enforcement action.

Such negotiations may involve the reduction or cessation of an unauthorised use of activity, or the modification or removal of unauthorised operational development. However, these negotiations will not be allowed to hamper or delay the consideration of enforcement action where the breach of control causes serious harm to amenity. Where the council is unable to negotiate an acceptable solution within a reasonable timescale, the council's Development Management Service will consider whether or not it is expedient to take formal enforcement action.

Option 4 - Retrospective application for planning permission

Where a breach of planning control has occurred, but no harm is being caused, or any harm might be removed or alleviated by the imposition of conditions on a planning permission, the person(s) responsible will be invited to submit a retrospective planning application within a specified time scale. In such cases, the application is made without prejudice to any final decision the council may take in the matter. If such an application is not submitted, the council will consider whether or not it is expedient to take formal enforcement action.

In accordance with the letter to Chief Planning Officers, dated 31st August 2015, which sets out changes to national planning policy, where a retrospective application is submitted for what is considered to be intentional unauthorised development, the intentional unauthorised development will be treated as a material consideration that would be weighed in the determination of the retrospective application. This will be particularly so for intentional inappropriate development in the Green Belt where there is no opportunity to appropriately limit or mitigate the harm that has already taken place.

Option 5- Formal enforcement action

Where it has been established that a breach of planning control has occurred and it does not appear the harm can be mitigated by negotiations with the landowner and/or a retrospective planning application, the council will consider using its statutory powers to take action to remedy the breach. The use of these powers (listed below) is discretionary and will be used when it is considered expedient to do so, having regard to the development plan and any other material considerations. Any action taken must be proportionate to the breach of planning control.

5. FORMAL ENFORCEMENT ACTION

Planning Contravention Notice

This is a legal notice which brings any breach to the attention of the owner or occupier, and will require the alleged offender to provide such information as to:

- (a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and
- (b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted, as may be specified in the notice.

The planning contravention notice will require that the information is provided within 21 days from the date that the notice is served.

Enforcement Notice

Enforcement Notices should only be served where it is expedient to do so, and all reasonable efforts to resolve the breach through negotiation have failed.

Enforcement Notices are formal legal documents served by local planning authorities that require the owner/s and/or occupier/s to undertake specific steps to remediate breaches of planning control by a set date. Enforcement Notices will generally require the removal/demolition of unauthorised operational development on land and/or the cessation of the unauthorised use of land. If the notice is not complied with by the date the requirements of the notice take effect, the breach will become a criminal offence and the landowner and/or occupier can be prosecuted in the criminal courts.

The notice may be appealed to an independent government planning inspector, who can decide to uphold, amend or quash the notice.

Breach of Condition Notice

A Breach of Condition Notice can be served where the breach of planning control relates to non-compliance with a condition on a planning permission. Service of a Breach of Condition Notice provides a mechanism for the summary enforcement of a breach of condition or a limitation subject to which a planning permission has been granted.

The Breach of Condition Notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time period for compliance.

Section 215 Notice (Untidy Land Notice)

A Section 215 Notice can be served in cases where the amenity of an area is adversely affected by the condition of land or buildings.

The Notice will specify the steps required to be taken to remedy the condition of the land or buildings, the time period within which the steps must be taken and the date that it takes effect.

Prosecution

In most cases it will not be possible to prosecute unless a legal notice been served in respect of the planning breach and any requirements of the notices are outstanding after the deadline for compliance.

Before commencing any legal proceedings the council must be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

Stop Notice

A Stop Notice can be served with an Enforcement Notice or afterwards, where it is considered expedient that the breach of planning control shall cease before the expiry of the period of or compliance specified in the Enforcement Notice. The failure to comply with a Stop Notice is itself a criminal offence.

A landowner or occupier may be entitled to compensation in respect of loss or damage caused by the stop notice procedure in situations where the appropriate enforcement notice is quashed, varied or withdrawn.

Court Injunctions

The council can consider submitting an application for an injunction in situations, where a breach of planning control is causing very serious harm to public amenity and the environment and in cases where urgent action is necessary to bring about the immediate cessation of a relevant activity.

Such action will only normally be considered if the breach is particularly serious and there are strong grounds for take such action.

Temporary Stop Notice

This differs from the normal Stop Notice powers because the Temporary Stop Notice does not have to wait for an Enforcement Notice to be issued. In addition the effect of a temporary stop notice will be immediate and the notice will cease to have effect at the end of the period of 28 days after which the notice is displayed. A Temporary Stop Notice cannot be used to prevent the use of a building as a dwelling that the council thinks is a breach of planning control. It will also set out the council's reasons for issuing the Temporary Stop Notice.

Direct Action

Where any steps required by an Enforcement Notice have not been taken within the compliance period (other than the discontinuance of the use of land), or where any steps required as part of a Section 215 (Untidy Land) notice have not been taken within the prescribed timescales, the Council will consider whether it is expedient to exercise its power under Sections 178 and 219 of the Town and Country Planning Act 1990 (as amended) to:

- (a) enter the land and take the steps; and
- (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

6. SERVICE APPROACH

Complaints will initially be referred for investigation to the Community Safety and Enforcement Service where officers will consider the issues raised.

Where planning applications are under consideration with the council, have recently been approved, or are subject to discharge of condition applications, complaints and issues relating to the development at the site will be taken up by the relevant planning officer with the developer or agent responsible for the scheme. This approach is intended to resolve issues with the development at the earliest opportunity. Developers and agents are expected to work with the council to ensure, wherever possible, issues about development are addressed in a timely manner.

Occasionally complaints can relate to more complex matters where it is necessary to obtain specialist input from planning officers and or other officers within the council to seek the best solution to the issues raised. In these cases the appropriate planning officer will direct the enforcement officers as to the most appropriate course of action. These will include:

- unauthorised works to listed buildings
- trees covered by Tree Preservation Orders
- demolition within a Conservation Area
- mineral and waste operations

Officers from the Community Safety and Enforcement Service will undertake an investigation into the complaint to gather any necessary information and evidence. The council's Development Management Service operates in connection with the council's statutory role as the Local Planning Authority. It may therefore be necessary for enforcement officers to consult with qualified planning officers to obtain an expert judgement and decision as to the course of action to follow.

7. SERVICE COMMITMENTS

Complaints will normally be acknowledged within 3 working days of receipt. Each case will be individually assessed. Complaints will be dealt with in accordance to priority, although every effort will be made to deal with complaints as quickly as possible.

It is not possible to give a standard time for dealing with a planning complaint, as investigation and enforcement can be a lengthy and complex process. Complainants will be informed of the status of the case throughout the investigation.

Every effort will be taken to ensure that those being regulated fully understand what action is being taken, the steps that are required to remedy the breach, and the possible implications should they fail to comply with the requirements of that action.

When the council decides not to take formal enforcement action the complainant will be notified of the reason for the council's decision.

NOVEMBER 2015