



Doncaster Council

Agenda

To all Members of the

PLANNING COMMITTEE

Notice is given that a Meeting of the above Committee is to be held as follows:

Venue: Council Chamber - Civic Office, Waterdale, Doncaster, DN1 3BU

Date: Tuesday, 23rd July, 2019

Time: 2.00 pm

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Damian Allen
Chief Executive

Issued on: Monday, 15 July 2019

Governance Services Officer for this meeting

Amber Torrington
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Doncaster Metropolitan Borough Council
www.doncaster.gov.uk

Item	Page No.
1. Apologies for Absence.	
2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.	
3. Declarations of Interest, if any.	
4. Minutes of the Planning Committee Meeting held on 25th June, 2019	1 - 12
A. Reports where the Public and Press may not be excluded.	
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Members of the Planning Committee

Chair – Councillor Susan Durant
Vice-Chair – Councillor Sue McGuinness

Councillors Duncan Anderson, Iris Beech, Mick Cooper, George Derx, John Healy, Eva Hughes, Mark Houlbrook, Andy Pickering and Jonathan Wood

Agenda Item 4.

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE

TUESDAY, 25TH JUNE, 2019

A MEETING of the PLANNING COMMITTEE was held at the COUNCIL CHAMBER, CIVIC OFFICE on TUESDAY, 25TH JUNE, 2019, at 2.00 pm.

PRESENT:

Chair - Councillor Susan Durant
Vice-Chair - Councillor Sue McGuinness

Councillors Duncan Anderson, Iris Beech, Mick Cooper, George Derx, John Healy and Jonathan Wood.

APOLOGIES:

Apologies for absence were received from Councillors Eva Hughes, Mark Houlbrook and Andy Pickering.

9 DECLARATIONS OF INTEREST, IF ANY.

In accordance with the Members Code of Conduct, the Chair, Councillor Susan Durant, declared an interest in Application Nos. 17/01021/FULM and 18/02761/FUL, Agenda Item 5(3 and 6), by virtue of being a Local Ward Member for Thorne and Moorends.

In accordance with the Members Code of Conduct, the Vice-Chair, Councillor Sue McGuinness, declared that she had received electronic correspondence from Mr Neil Martin in relation to Application No. 18/02761/FUL, Agenda Item 5(7) but had not given her opinion thereon.

In accordance with Members Code of Conduct, Councillor Iris Beech declared an interest in Application No. 18/02033/OUT, Agenda Item 5(5), by virtue of being the Local Ward Member for Norton and Askern.

10 MINUTES OF THE PLANNING COMMITTEE MEETINGS HELD ON 10TH AND 28TH MAY, 2019

RESOLVED that the minutes of the meetings held on 10th May and 28th May, 2019 be approved as a correct record and signed by the Chair.

11 SCHEDULE OF APPLICATIONS

RESOLVED that upon consideration of a Schedule of Planning and Other Applications received, together with the recommendations in respect thereof, the recommendations be approved in accordance with Schedule and marked Appendix 'A'.

12 TOWN AND COUNTRY PLANNING ACT 1990, SECTION 106 AGREEMENT

RESOLVED that prior to the issue of planning permission in respect of the following planning application, which is included in the Schedule of Planning and Other Applications marked Appendix 'A' and attached hereto, the applicant be required to enter into an Agreement under Section 106 of the Town and Country Planning Act 1990, regulating the development:-

Application No	Description and Location
18/02593/FULM	Erection of 14 dwellings on approximately 0.45ha of land following demolition of existing building at White and Carter, Station Road, Blaxton, Doncaster

13 APPEAL DECISIONS

RESOLVED that the following decision of the Secretary of State and/or his inspector, in respect of the under-mentioned Planning Appeal against the decision of the Council, be noted:-

Application No	Application Description & Location	Appeal Decision	Ward	Decision Type	Overtaken
17/02756/FUL	Renovation of Castle Cottage and conversion of the stables with single storey extension to form new dwelling at Castle Cottage, Lindrick, Tickhill, Doncaster	Appeal Allowed 14/05/2019	Tickhill and Wadworth	Committee	Yes
18/00638/FUL	Proposed detached 4 bed dwellings with detached garage (Being a re-submission of 17/01202/FUL) at San Lorenzo, Armthorpe Lane, Barnby Dun, Doncaster	Appeal Dismissed 14/05/2019	Stainforth and Barnby Dun	Committee	No
18/01324/FUL	Erection of 6 residential units to the rear of 112 Bentley Road following demolition of the	Appeal Dismissed 20/05/2019	Bentley	Delegated	No

	store building at 112 Bentley Road, Bentley, Doncaster DN5 9QW				
18/00055/COU	Change of use of domestic garage to car minor repair and servicing operation at 3 Alverley View, Springwell Lane, Alverley, Doncaster	Appeal Dismissed 30/05/2019	Tickhill and Wadworth	Delegated	No

14 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that the public and press be excluded from the remaining proceedings of the meeting, in accordance with Section 100(A)(4) of the Local Government Act, 1972, as amended, on the grounds that exempt information as defined in Paragraph 3 of Schedule 12A to the Act, is likely to be disclosed.

15 PUBLICATION (REGULATION 19) OF THE DONCASTER LOCAL PLAN 2015-2035 (EXCLUSION PARAGRAPH 3)

The Committee received a further report, which briefly summarised the next stage of the Local Plan process. A copy of the draft Doncaster Local Plan 2015-2035 was appended to the report for reference and further information as to its detailed content. Key site allocations for housing, employment and minerals were set out in Appendix 2 of the report.

It was noted that the Local Plan Publication version was now progressing through the Council's internal approvals processes. The report set out a timetable to see the Local Plan through to Full Council approval in July where a full resolution was required before the Publication version can be published for the statutory stage.

Scott Cardwell, Assistant Director of Development briefly summarised the changes made to the content of the plan in response to the comments received from the consultation exercise with Members and it was noted that these were summarised in the table set out in Appendix 3 of the plan.

Following a number of comments in support of the changes made to the Plan, it was unanimously

RESOLVED to note the contents of the report and the Doncaster Local Plan 2015-2035 (Regulation 19 Publication Version).

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 25th June, 2019

Application	1		
Application Number:	17/02585/FULM	Application Expiry Date:	18th January 2018
Application Type:	Planning FULL Major		
Proposal Description:	Erection of 7 new dwellings and the conversion of existing buildings to form 5 dwellings, with the repair of colonnade feature, access, landscaping and addition of stone wall to Barnsley Road.		
At:	Manor Farm, Barnsley Road, Marr, Doncaster		
For:	Mr Atkinson – A.J. Atkinson and Sons		
Third Party Reps:	6	Parish:	Marr Parish Meeting
		Ward:	Sprotborough

A proposal was made to defer the application in order for a full traffic survey to be carried out and to ensure all parties receive the correct information.

Proposed by: Councillor Jonathan Wood

Seconded by: Councillor Mick Cooper

For: 2 **Against:** 4 **Abstain:** 2

The Motion to defer the application FELL

A proposal was made to grant the application subject to referral to the National Case Work Unit

Proposed by: Councillor Iris Beech

Seconded by: Councillor John Healy

For: 6 **Against:** 2 **Abstain:** 0

Decision: Planning permission granted subject to referral to the National Case Work Unit.

With the agreement of the Chair and Planning Committee and in accordance with Planning Guidance 'Having Your Say at Planning Committee', Rhonda Job, Chair of Marr Parish Meeting spoke in opposition applications 1 and 2 on the agenda for the duration of up to 10 minutes as the applications were linked.

In accordance with Planning Guidance 'Having Your Say at Planning Committee', Mr Roland Bolton (Agent) spoke in support of the application for the duration of up to 5 minutes.

(Additional information to justify crossings in the Borough was reported at the meeting).

Application	2
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Application Number:	17/02586/LBCM	Application Expiry Date:	17th January, 2018
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Application Type:	Listed Building Consent Major
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Proposal Description:	Erection of 7 new dwellings and the conversion of existing buildings to form 5 dwellings, with the repair of colonnade feature, access, landscaping and addition of stone wall to Barnsley Road.
At:	Manor Farm, Barnsley Road, Marr, Doncaster

For:	Mr Atkinson – A.J. Atkinson and Sons
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Third Party Reps:	6	Parish:	Marr Parish Meeting
		Ward:	Sprotbrough

A proposal was made to grant the application

Proposed by: Councillor Iris Beech

Seconded by: Councillor George Derx

For: 6 Against: 2 Abstain: 0

Decision: Listed Building Consent granted.

Application	3
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Application Number:	17/01021/FULM	Application Expiry Date:	17 th October, 2017
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Application Type:	Planning FULL Major
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Proposal Description:	Proposed erection of 57 apartments with associated ancillary and parking following the demolition of the former NHS clinic
At:	Glebe House, Haynes Road, Thorne, Doncaster

For:	Mr Haydar Ulus
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Third Party Reps:	42	Parish:	Thorne Town Council
		Ward:	Thorne and Moorends

A proposal was made to grant the application subject to the amendment of condition 9 concerning root protection zone.

Proposed by: Councillor Sue McGuinness

Seconded by: Councillor John Healy

For: 7 **Against:** 0 **Abstain:** 1

Decision: Planning permission granted subject to the amendment of condition 9 to read as follows:-

09. Prior to the commencement of the development hereby granted a scheme for the protection of all retained trees that complies with clause 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority, including a method statement for the construction of parking spaces. Tree protection shall be implemented on site in accordance with the approved details and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials have been removed from the site, unless the local planning authority gives its written approval to any variation. Nothing shall be stored or placed in any area fenced 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 that all trees are protected from damage during construction in accordance with core strategy policy CS16: Valuing our natural environment.

In accordance with Planning Guidance, 'Having Your Say at Planning Committee, Mr Dale Gill (Agent) spoke in support of the application for the duration of up to 5 minutes.

(One additional representation received by a resident in relation to paragraphs 5.3 and 5.4 of the report was reported at the meeting).

Application	4
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Application Number:	18/02593/FULM	Application Expiry Date:	21st January 2019
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Application Type:	Planning FULL Major
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Proposal Description:	Erection of 14 dwellings on approximately 0.45ha of land following demolition of existing building
At:	White and Carter, Station Road, Blaxton, Doncaster

For:	White and Carter – Andy Martin
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Third Party Reps:	0	Parish:	Blaxton Parish Council
		Ward:	Finningley

A proposal was made to grant the application subject to the completion of a Section 106 agreement.

Proposed by: Councillor Duncan Anderson

Seconded by: Councillor George Derx

For: 8 Against: 0 Abstain: 0

Decision: Planning permission granted subject to the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) in relation to the following matters, and the Head of Planning be authorised to issue the Decision Notice upon completion of the Agreement:-

- A) Education contribution for 54,891 towards providing 3 additional secondary school places at Hayfield School.**
- B) £169,000 towards affordable housing contribution equating to two affordable houses; and**
- C) £30,109 towards public open space contribution.**

In accordance with Planning Guidance, ‘Having Your Say at Planning Committee, Miss Susan Chan (Planning Agent) spoke in support of the application for the duration of up to 5 minutes.

Application	5
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Application Number:	18/02033/OUT	Application Expiry Date:	23rd October 2018
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Application Type:	Outline Application
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Proposal Description:	Outline application for the construction of 1 dwelling (re-submission of withdrawn application 17/02191/OUT)
At:	Chateau Renee, Sutton Road, Campsall, Doncaster

For:	Mr Arjun Patel – QFM Group
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Third Party Reps:	6	Parish:	Thorne Town Council
		Ward:	Thorne and Moorends

A proposal was made to defer the application for a site visit to assess the tree species on the site, building line of existing properties, validity of the tree survey and the impact on highways as set out in paragraphs 8.13 and 8.14 of the report.

Proposed by: Councillor Mick Cooper

Seconded by: Councillor John Healy

For: 8 Against: 0 Abstain: 0

Decision: The application be deferred for a site visit to assess the tree species on the site, building line of existing properties, validity of the tree survey and the impact on highways as set out in paragraphs 8.13 and 8.14 of the report.

In accordance with Planning Guidance, ‘Having Your Say at Planning Committee’, Mr Ron Firth (Neighbour) spoke in opposition to the application for the duration of up to 5 minutes.

(The receipt of an additional consultation reply from Norton Parish Council requesting a site visit was reported at the meeting).

Application	6
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Application Number:	19/00431/FUL	Application Expiry Date:	22nd April 2019
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Application Type:	Full Application
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Proposal Description:	Erection of detached house following demolition of existing bungalow and temporary siting of static caravan for 1 year.
At:	143 Melton Road, Sprotbrough, Doncaster DN5 7NS

For:	Mr David Blackburn
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Third Party Reps:	13	Parish:	Sprotbrough and Cusworth Parish Council
		Ward:	Sprotbrough

A proposal was made to grant the application.

Proposed by: Councillor Sue McGuinness

Seconded by: Councillor Iris Beech

For: 6 Against: 0 Abstain: 0

Decision: Planning permission granted.

In accordance with Planning Guidance, 'Having Your Say at Planning Committee', Katherine Hauser spoke in opposition to the application for the duration of up to 5 minutes.

Application	7
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Application Number:	18/02761/FUL	Application Expiry Date:	Extended until 30th June 2019
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Application Type:	Section 73 Application
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Proposal Description:	Section 73 Application to vary conditions 2 and 11 of Planning Permission 16/02725/FUL (as altered from 15/02286/FUL) 1. Alterations to boundary wall to reduce in height from 3.3m to 2.2m, to be repaired and repointed (amended description)
At:	1 Thorne Hall Court, Ellison Street, Thorne DN8 5LE

For:	Mr Alex Cutts
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Third Party Reps:	26	Parish:	Thorne
		Ward:	Thorne and Moorends

A proposal was made to refuse the application.

Proposed by: Councillor John Healy

Seconded by: Councillor George Derx

For: 8 Against: 0 Abstain: 0

Decision: Planning permission refused for the following reason:-

- 01. The proposal to reduce the height of the wall would harm the historic fabric and significance of a heritage asset and the character and appearance of the Thorne Conservation Area, which would be neither preserved nor enhanced. The proposal would therefore conflict with Policy CS15 of the Core Strategy, Policies ENV25 and ENV34 of the UDP and Policy DDH1 of the Thorne and Moorends Neighbourhood Plan. It would also conflict with one of the core principles of the NPPF to conserve heritage assets in a manner appropriate to their significance.**

In accordance with Planning Guidance, 'Having Your Say at Planning Committee', Mr Neil Martin spoke in opposition to the application for the duration of up to 5 minutes.

DONCASTER METROPOLITAN BOROUGH COUNCIL

Date 23rd July 2019

To the Chair and Members of the

PLANNING COMMITTEE

PLANNING APPLICATIONS PROCESSING SYSTEM

Purpose of the Report

1. A schedule of planning applications for consideration by Members is attached.
2. Each application comprises an individual report and recommendation to assist the determination process. Any pre-committee amendments will be detailed at the beginning of each item.

Human Rights Implications

Member should take account of and protect the rights of individuals affected when making decisions on planning applications. In general Members should consider:-

1. Whether the activity for which consent is sought interferes with any Convention rights.
2. Whether the interference pursues a legitimate aim, such as economic well being or the rights of others to enjoy their property.
3. Whether restriction on one is proportionate to the benefit of the other.

Copyright Implications

The Ordnance Survey map data and plans included within this document is protected by the Copyright Acts (Sections 47, 1988 Act). Reproduction of this material is forbidden without the written permission of the Doncaster Council.

Scott Cardwell
Assistant Director of Development
Directorate of Regeneration and Environment

Contact Officers: Mr R Sykes (Tel: 734555)

Background Papers: Planning Application reports refer to relevant background papers

Summary List of Planning Committee Applications

NOTE:- Site Visited applications are marked 'SV' and Major Proposals are marked 'M'
Any pre-committee amendments will be detailed at the beginning of each item.

Application	Application No	Ward	Parish
1.	18/02033/OUT	Norton And Askern	Norton Parish Council
2.	17/01254/FULM	Conisbrough	
3.	19/01202/FUL	Hatfield	Hatfield Parish Council
4.	19/00991/FUL	Hatfield	Hatfield Parish Council

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 23rd July 2019

Application 1

Application Number:	18/02033/OUT	Application Expiry Date:	23rd October 2018
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Application Type:	Outline Application
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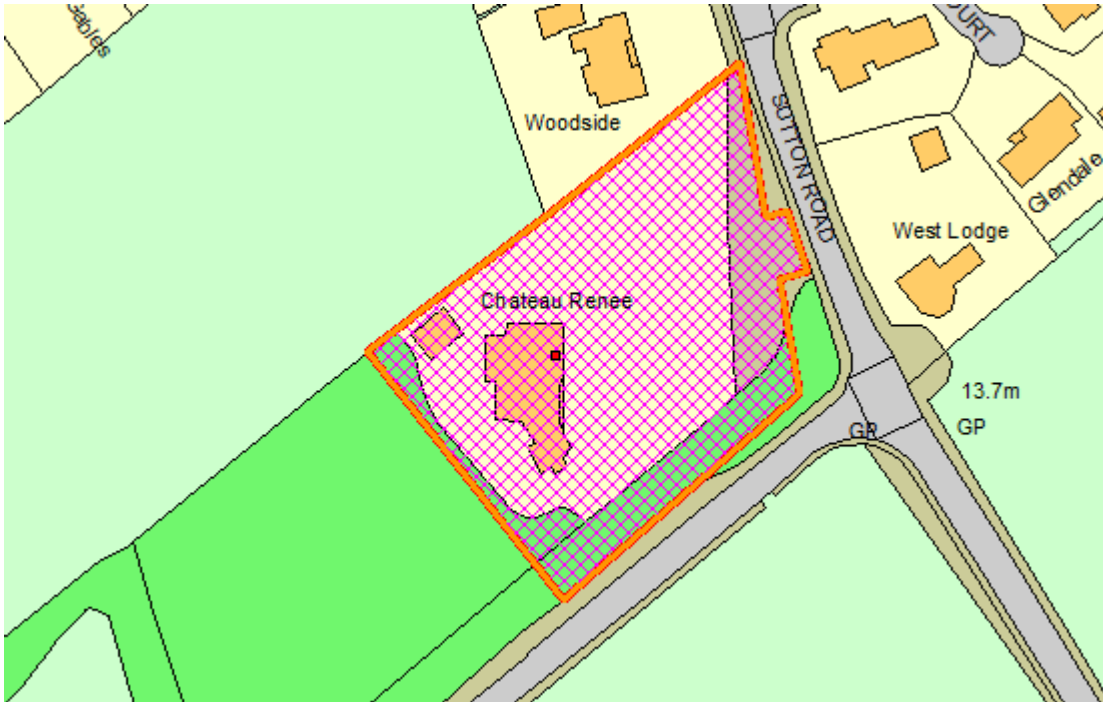
Proposal Description:	Outline application for the construction of 1 dwelling (re-submission of withdrawn application 17/02191/OUT)
At:	Chateau Renee Sutton Road Campsall Doncaster

For:	Mr Matthew Dale
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Third Party Reps:	24	Parish:	Norton Parish Council
		Ward:	Norton And Askern

Author of Report	Elizabeth Maw
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MAIN RECOMMENDATION:	GRANT
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1.0 Reason for Report

1.1 This application is being presented back to Members following its deferral from the Planning Committee meeting on 25th June 2019.

1.2 The application was deferred to allow a site visit to take place in order to assess the effect upon trees, to check the accuracy of the tree survey, to look at build lines and to consider the highway impact.

2.0 Proposal and Background

2.1 The application site is a large detached house, known as Chateau Renee. It is the first house on the left as you enter Campsall Village. The site adjoins Campsall Conservation Area and adds to the rural character on entering the village from Burghwallis and Sutton. It is well treed to its edge and a number of the trees are protected by tree preservation order (TPO).

2.2 This is an outline application for a house in the front garden. As this is an outline application there are no plans to show the scale or appearance of the house. The submitted plan does shows a relocation of the access and siting. However, these are indicative details only as all matters are reserved.

2.3 Twenty four objections have been received. Thirteen of these objections are residents of Campsall.

2.4 The site is within the village envelope and designated as being within a Residential Policy Area. A new house in the front garden is therefore acceptable 'in principle'. The main matters to consider are effect upon trees, potential impact upon the street scene and adjacent conservation area, effect to residential amenity, ecology and highway safety.

2.5 It should be noted that a second application is being considered by the Local Planning Authority for three dwellings within the rear garden. A decision on this application has not been reached yet. A plan of this second application can be seen in the Appendix. Officers do not consider this second application has any bearing or influence on the application being considered by members on this agenda as it is constrained entirely at the back of the site and the access point is from Burghwallis Road.

3.0 Relevant Planning History

3.1 18/02034/OUT: Outline application for the construction of 3 houses (all matters reserved) (resubmission of withdrawn application 17/02311/OUT). Pending consideration.

3.2 17/02311/OUT: Outline application for the construction of a detached house with garage and summerhouse (All Matters Reserved). Withdrawn 20.11.2017.

3.3 17/02191/OUT: Outline application for erection of 4 dwellings following demolition of existing dwelling (With all matters reserved). Withdrawn 06.11.2017

3.4 97/0520/P: Outline application for erection of one detached dormer bungalow on approx 0.07 ha of land. Refused 14.04.1997.

4.0 Representations

4.1 This application has been advertised in accordance with the The Town and Country Planning (Development Management Procedure (England)) Order 2015 by sending neighbour notification letters, site notice and press advert. 24 objections have been received. 13 are from residents of Campsall. The main concerns are:

4.2 Access: Sutton Road is a busy road, often used by drivers heading to and from the A1 and many drivers are speeding as they enter the village. The site access is being moved closer to a dangerous junction and the national speed limit zone. Highway safety could also be compromised during development as a result of construction trucks and skip wagons.

4.3 Character: A house in the front garden would look out of place. It is forward of the build line also. The dwelling would affect the open and green aspect when entering the village.

4.4 Ecology: The site has ecological importance and this has been damaged by previous work on site, including harm to protected species. A dwelling would further harm the ecological value of the site. The ecological reports do not fully address all the ecological issues.

4.5 Trees: The proposal would result in a loss of trees. These are in addition to the significant felling and clearance that occurred before the submission of the planning application.

4.6 Need: The village does not need any more housing and the village has very few services to support the new dwelling.

5.0 Parish Council

5.1 Concerns for the access because it is exiting onto a busy road and it is close to a junction. The village has limited infrastructure and therefore cannot support any additional properties.

6.0 Relevant Consultations

Highways Development Control: No objections subject to cutting back of the trees on the corner to improve visibility.

Design and Conservation: No objections, subject to conditions.

Tree Officer: No objections, subject to conditions.

Ecology: No objections subject to mitigation conditions and extra pre commencement surveys being carried out.

7.0 Relevant Policy and Strategic Context

National Planning Policy Framework (2019)

Doncaster Core Strategy (May 2012)

CS2: Growth and Regeneration Strategy

CS14: Design and Sustainable Construction
CS15: Valuing our Historic Environment
CS16: Valuing our Natural Environment

Doncaster Unitary Development Plan (1998) (saved policies)

PH11: Residential Policy Areas
ENV25: Conservation Areas

Supplementary Planning Documents

Residential Development Design Guidance and Requirements (July 2015).

The emerging Doncaster Local Plan

This will replace the UDP and Core Strategy once adopted. The Council is aiming to adopt the Local Plan by summer 2020. Consultation on the draft policies and proposed sites took place during September and October of last year and the Local Plan is due to be published in early summer 2019. Given the relatively early stage of preparation of the emerging Local Plan, the document carries very limited weight at this stage. The policies of this emerging plan that are relevant to this application are:

Policy 2: Spatial Strategy and Settlement Hierarchy
Policy 11: Residential Policy Areas
Policy 33: Woodlands, Trees and Hedgerows
Policy 38: Conservation Areas
Policy 45: Residential Design

8.0 Planning Issues and Discussion

8.1 The main matters to consider are:

Principle of the development
Effect to residential amenity
Character and Appearance
Highway Safety
Trees
Ecology

Principle

8.2 The proposal is acceptable in principle. The property is located within the rural village of Campsall and designated as being within a Residential Policy Area. Policy CS2 of the Doncaster Core Strategy states small and good quality housing schemes within the existing village boundary are permitted.

Effect to Residential Amenity

8.3 The proposed development is in outline form only, so the scale and design of the house is not known.

8.4 The indicative layout shows a detached house facing the road. The siting is indicative but unlikely to change significantly because it is so constrained by the trees around it. Assuming the main windows are on the front and rear elevations then the effect to residential amenity would be minimal and residential separation distances set out in the Supplementary Planning Document (Residential Development Design Guidance and Requirements) can be complied with. Further consideration on this matter will be part of any detailed application (reserved matters).

8.5 In 1997 an application was refused in the front garden and one of the reasons was because Chateau Renee would overlook the new house because of its higher position. Based on the indicative siting of this proposed property, there would not be an overlooking issue from Chateau Renee because of the angle of the two properties.

Character and Appearance

8.6 The site is adjacent to the Campsall Conservation Village and adds to the rural feel of the village. The character at the entrance to the village is low density houses that are set back from the road, front gardens, and trees and landscaping. Chateau Renee is set back within its plot and at an elevated position.

8.7 Planning policy advises that any new developments should preserve or enhance the conservation area (including views towards a conservation area). Developments should also respond to important features and integrate well into their surrounding area.

8.8 A proposed house in the front garden would be set back from the roadside and the frontage trees (which are covered by Tree Preservation Orders) would be retained. As the proposed house would be set back it would not dominate the view when entering the village and the existing trees would break up views of the house. The house would also be built at a low density and form a continuation of the existing housing that front onto Sutton Road and is therefore following the development pattern in the area. Other houses along Sutton Road would be seen in background to this house as well. Only two trees are to be removed so the green character would be materially unaffected.

8.9 Residents are concerned that a house in the front garden would look out of place and it would spoil the green and open aspect when entering the village. However, for the reasons above officers do not share this opinion.

8.10 The Council's Conservation Officer raises no objections subject to landscaping, materials and boundary conditions.

8.11 A resident has expressed a concern that the proposed house would be forward of the build line. The indicative plan shows the dwelling to be at angle to next door but the build line on this side of the road is not particularly strong and is therefore not a critical feature. The trees and the low density design will also break up the views of the house. A reserved matters application would give this matter further consideration.

8.12 In the 1997 decision, the officer report advised that the plot and proposed house was small and therefore out of character. This proposal is different as the plot is larger and has a more spacious setting and therefore overcomes the previous reason for refusal.

Highway Considerations

8.13 The existing property is served from a drive off Sutton Road. The proposed drive would be repositioned further south. A number of residents have expressed their concern for the intensification of the site and the moving of the entrance because vehicles enter the village from Sutton are sometimes travelling at high speed despite it being a 30mph zone.

8.14 Highways have advised the new entrance is moving closer to the junction with Burghwallis Road so it is not ideal. However, it would still be 27m away which is judged to be a far enough distance away. Crown lifting of the trees on the corner would improve the visibility and offset the harm. Highways have also taken into account that this proposal is for only one house so the number of additional traffic movements is low.

Trees

8.15 The Chateau Renee site in total has 111 individual trees and 8 groups of trees, hedges or shrubs. Of the surveyed trees: 4 trees are retention category 'U', 21 trees are retention category 'B' and the remaining 94 trees are retention category 'C'. The trees are a diverse mix. Some but not all of the trees are covered by Tree Preservation Orders.

8.16 The indicative site plan shows that a dwelling can be positioned on this plot with only the removal of two trees. The two trees are, category C and they are a semi mature Hazel and an early mature Thuja. The two trees are not covered by Tree Preservation Orders and could be removed without consent of the Local Planning Authority. The applicant has agreed to re-planting and landscaping to offset the harm of removing the two trees.

8.17 The Tree Officer has taken into account this is a plot that would be overshadowed by a number of trees but considers the house and garden would have enough sunlight and daylight available. A number of the trees are protected by TPOs as well and the Tree Officer is considering making orders for additional trees to be protected.

8.18 The trees that are on the junction and require cutting back for visibility are protected by tree preservation order but the Tree Officer agrees that cutting back is acceptable to facilitate the better visibility.

8.19 Based on the assessment above, the proposal complies with the NPPF and local policy.

Ecology

8.20 The site has ecological value. Bats, badgers and great crested newts were given particular consideration by the ecologists involved with this application. Ecology reports were submitted with the application. The Council's Ecologist has checked the reports and visited the site. The conclusion is the development can proceed subject to a number of conditions to protect, mitigate and enhance the ecological value of the site. This approach would comply with both local and national planning policy.

8.21 Bats

The bat survey showed that there is a bat roost present in the building present on site. This building is to be retained within the proposals so bats will not be impacted. The two trees to be removed have a low ecological value.

8.22 Badgers

A badger sett was found on site but it is disused. Badgers are very mobile animals so the status of setts can change. A condition for a pre commencement survey of the site will ensure the sett is still inactive and no other setts have been established on the site. This will provide the opportunity to establish any necessary mitigation if required.

8.23 Great Crested Newts

The first planning application on this site was submitted in 2017. When this application became public many objectors reported the front garden once had a pond, which was drained. Some residents expressed their concern that the pond could have contained great crested newts and it was drained to disguise the ecological value of the site and reduce any planning issues.

8.24 The advice given to the general public in 2017 was: Planning consent is not needed to drain a pond although it is a criminal offence to kill or injure a protected species. If the draining of the pond caused harm to a protected species (e.g. great crested newts) and there is evidence it should be reported to the police and it would have been beneficial to report the allegation at the time the pond was being drained. Harm to protected species is a criminal matter and not a planning consideration.

8.25 Moving forward, the Local Planning Authority want to ensure great crested newts were not affected by future development so they asked for a survey to be carried out. The survey found no evidence that great crested newts were using the site.

9.0 Summary and Conclusion

9.1 A house within the front garden is acceptable in principle and complies with Core Strategy Policy CS2 and saved UDP policy PH11. The submitted site plan demonstrates it is possible to build a house in the front garden without causing harm to residential amenity, the character of the area or highway safety. The proposal would not result in a detrimental tree loss or have an adverse effect to protected species. The recommendation is to approve the application.

10.0 Recommendation

10.1 Outline planning permission be granted subject to the following conditions:

01. STAT2 The development to which this permission relates must be begun not later than whichever is the later of the following dates:- i) The expiration of three years from the date of this permission or ii) The expiration of two years from the final approval of the reserved matters or in the case of different dates the final approval of the last such matter to be approved.

REASON

Condition required to be imposed by Section 92 (as amended) of the Town and Country Planning Act 1990.

02. STAT3 In the case of the reserved matters, application for approval must be made not later than the expiration of three years beginning with the date of this permission.
REASON
Condition required to be imposed by Section 92(as amended) of the Town and Country Planning Act 1990.
03. STAT4 Approval of the details of the access, layout, scale, appearance and landscaping of the site (hereinafter referred to as reserved matters) shall be obtained from the local planning authority before the commencement of any works.
REASON
To enable the local planning authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.
04. Details of the proposed external building materials shall be submitted to and approved in writing by the Local Planning Authority prior to those external materials being utilised on site. The development shall be carried out in accordance with the approved materials.
REASON
To ensure that the materials are appropriate to the area in accordance with policy CS14 of the Doncaster Core Strategy.
05. MAT4 No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials, height, and type of boundary treatment to be erected on site, including any gates. Unless otherwise approved in writing by the local planning authority, the details as approved shall be completed before the occupation of any buildings on site.
REASON
To ensure the satisfactory appearance of the development.
06. HIGH1 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.
REASON
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
07. HIGH11 The development hereby approved shall not be brought into use until a crossing over the footpath/verge has been constructed in accordance with a scheme previously approved in writing by the local planning authority.
REASON
To avoid damage to the verge.

08. U0070710 Prior to occupation of the dwelling hereby approved, improvements shall be made to highway visibility by the crown lifting of trees on the junction of Burghwallis Road and Sutton Road up to a height of 2m and these visibility improvements shall be maintained for the lifetime of the dwelling hereby approved. The applicant should make contact with Highways Network Management. Darren Sides (01302) 735130. Darren.sides@doncaster.gov.uk for advice on the extent of adopted highway in relation to the cutting back of the vegetation required. Should the vegetation requiring attention be outside the extent of adopted highway the applicant should be advised to obtain the permission of the relevant land owner/s.
REASON
In the interest of highway safety.
09. U0070698 The development shall not be commenced nor materials or machinery brought onto the site until full details of the access through the site using the alignment shown on drawing SK. 101 Rev C have been submitted to and approved in writing by the Local Planning Authority. The details shall include a site layout plan with the stem position, root protection areas and crown spread of any tree with a canopy spread or RPA affected by the track accurately plotted and clearly differentiate between trees to be retained and trees to be removed; a detailed drawing and written specification for the construction of the access track utilising a professionally recognised 3-dimensional load-bearing construction technique; and a method statement for its installation using a no-dig methodology. Thereafter, installation of the access track shall be undertaken in full accordance with the approved details and the local planning authority notified to approve implementation of the track before any equipment, machinery or materials have been brought on to site for the purposes of the development.
REASON:
To prevent the loss of and damage to roots from retained trees as a result of the installation of the new access track.
10. U0070699 The alignment of all service trenches and overhead services shall be outside the root protection areas and canopy spreads of retained trees and the position all service trenches and overhead services approved by the Local Planning authority prior to the commencement of development. The design, implementation and maintenance of the services should follow the NATIONAL JOINT UTILITIES GROUP (NJUG) guidelines for the planning, installation and maintenance of utility apparatus in proximity to trees.
REASON
To prevent damage being caused to trees which it has been agreed shall be retained

11. U0070700 No development or other operations shall commence on site in connection with the development (including tree pruning, demolition works, soil moving, access formation or alteration, or any operations involving the use of construction machinery) until a detailed Method Statement following the guidance in BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. The Method Statement shall be based on the tree survey data (appendix 4: tree data) within ARBORICULTURAL REPORT & Impact Assessment (Reference: AWA2306) and include full detail of the following:

Installation and phasing (if needed) of a tree protection and temporary ground protection scheme for the protection of the retained trees
Removal of existing structures and hard surfacing from within the root protection area of retained trees

Installation of new hard surfacing and access - materials, design constraints and implications for levels with the root protection areas of retained trees

Treatment of the access points in to the site

Siting of materials storage areas and site cabins

Specification for tree work

Auditable system of arboricultural site monitoring, including a schedule of specific site events requiring arboriculture input or supervision.

A list of contact details for the relevant parties.

REASON

To prevent damage to trees shown for retention on the Approved Plan

12. U0070701 No development shall take place on the site until a detailed landscape scheme has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority the landscape scheme shall include: a planting plan and schedule (BS 3936-1:1992) including a mixed native hedge along the Sutton Road boundary; enhancement of the Burghwallis Road hedgerow and tree belt; hard landscape; a landscape establishment specification; a maintenance specification for a minimum of five years following practical completion of the landscape works following the guidance in BS 8545:2014 Trees: from nursery to independence in the landscape - Recommendations .

REASON

In the interests of environmental quality

13. U0070702 The planting scheme once approved in writing by the Local Planning Authority, shall be implemented in the first available planting season after commencement of development. The local Planning Authority shall be notified in writing within 7 working days of completion of the landscape works to the required standard and the completion shall be subsequently approved in writing by the Local Planning Authority.

The approved scheme shall be maintained for a minimum of five years in accordance with the Local Planning Authority's publication 'Landscape Specification in Relation to Development Sites'. Any landscape which is defective, damaged or removed within five years of establishment shall be replaced.

REASON

In the interests of environmental quality

14. U0070704

No more than 1 month prior to the commencement of development a survey of the whole site will be undertaken by a suitably qualified ecologist to establish the status of the site with respect to badgers and inform any necessary mitigation measures. The findings of the report shall be submitted to the local planning authority for approval in writing.

REASON

In line with Core Strategy Policy 16 to ensure the ongoing ecological interests of the site.

15. U0070707

Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Plan will contain details of the following:

The working practices on site that will be employed to ensure no construction impacts on badgers.

A reasonable avoidance method statement to be employed during site clearance so that species such as reptiles and amphibians are not impacted.

A toolbox talk to ensure contractors are aware of possible ecological issues and the actions that need to be taken if they encounter particular species.

The Construction Environmental Management Plan shall be followed in full unless agreed otherwise in writing by the Local Planning Authority.

REASON

In line with Core Strategy Policy 16 to ensure the ongoing ecological interests of the site.

16. U0070709

Prior to the commencement of development an ecological enhancement plan shall be submitted to the local planning authority for approval in writing. This shall include details of the following:

The installation of 1 habitat bat roosting box as indicated in the ecology report on the new house on the site.

The creation of features of value to amphibians on the site.

The above measures shall then be implemented as described.

REASON

In line with Core Strategy Policy 16 to ensure the ongoing ecological value of the site.

17. CON1B

No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.

a) The Phase I desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.

b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.

c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology.

Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment pursuant to the National Planning Policy Framework. This has to be prior to commencement so that any risks are assessed before works begin to the ground whether this be demolition works or construction works and remediation in place before works begin.

18. CON2

Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

19. CON3

Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filing and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

20. DA01

The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.

REASON

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.

01. U0013456 INFORMATIVE
The plan relevant to this decision is the amended site plan revision D, received by the Local Planning Authority on 07.06.2019.
02. U0013439 INFORMATIVE
The trees along the south and west boundary of the application site is subject to A11 of Doncaster Rural District Council Tree Preservation Order (No.18) 1972 Campsall with Sutton. It is a criminal offence to wilfully damage a tree subject to a Tree Preservation Order. Failure to implement the above Planning Conditions which seek to protect the trees will be deemed to constitute wilful damage and may result in criminal proceedings being instigated by the council. Preventing damage to the trees is in the interests of tree health and also in the interests of safety of persons and property
03. U0013440 INFORMATIVE
Following the granting of planning permission the Council will serve a tree preservation order under section 198 of the Town and Country Planning Act 1990 (as amended) to enforce the above conditions.
04. ICON1 INFORMATIVE
Prior to preparing any reports in support of conditions relating to land contamination, the applicant is strongly advised to refer to the document entitled Development on land affected by contamination. Technical Guidance for Developers, Landowners and Consultants. Yorkshire and Humberside Pollution Advisory Council.
- The document can be found at the following web address:
<http://www.doncaster.gov.uk/services/environmental/developing-on-contaminated-land>. Or alternatively you can request a paper copy from the LPA.

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1: Indicative Site Plan



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DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 23rd July 2019

Application 2

Application Number:	17/01254/FULM	Application Expiry Date:	2nd October 2017
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Application Type:	Planning FULL Major
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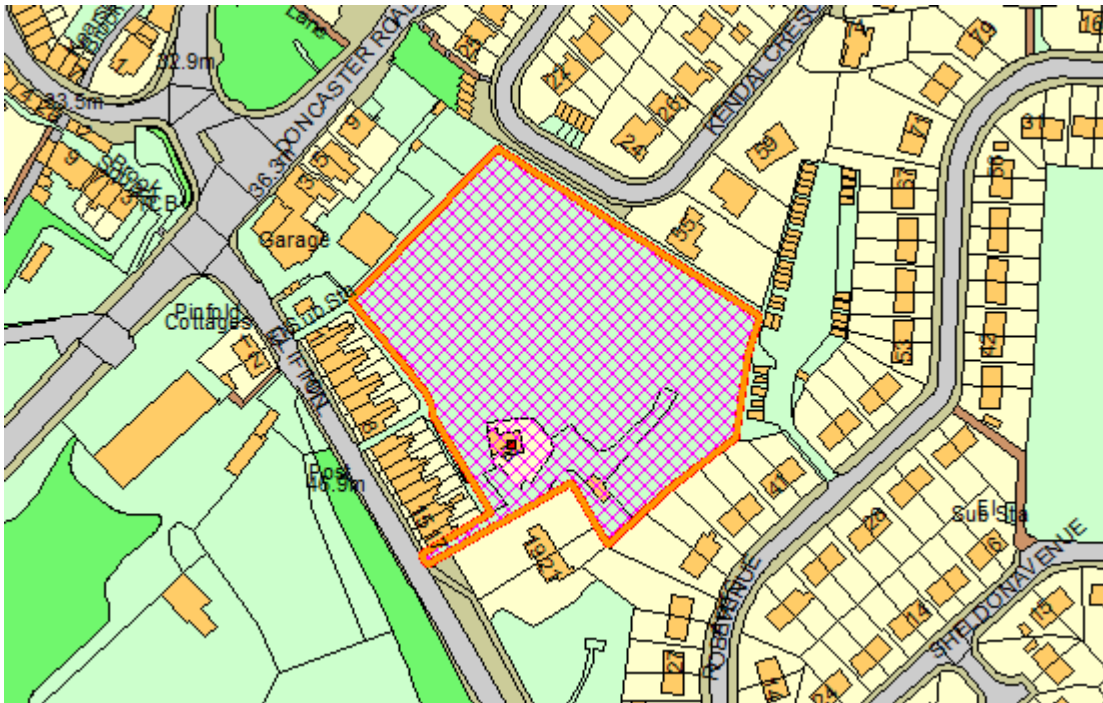
Proposal Description:	Erection of 9 detached dwellings.
At:	Land At Clifton Hill Conisbrough Doncaster DN12 2DA

For:	Mr C Morte
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Third Party Reps:	74 Letters of objection and 2 petitions containing 30 signatures	Parish:	
		Ward:	Conisbrough

Author of Report	Gareth Stent
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MAIN RECOMMENDATION:	GRANT
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1.0 Reason for Report

1.1 The application is presented to planning committee for two reasons: 1) at the request of Councillor Nigel Ball given the concerns in relation to due to the proposed access and service road facilitation; and 2) due to the significant amount of representations received.

2.0 Proposal and Background

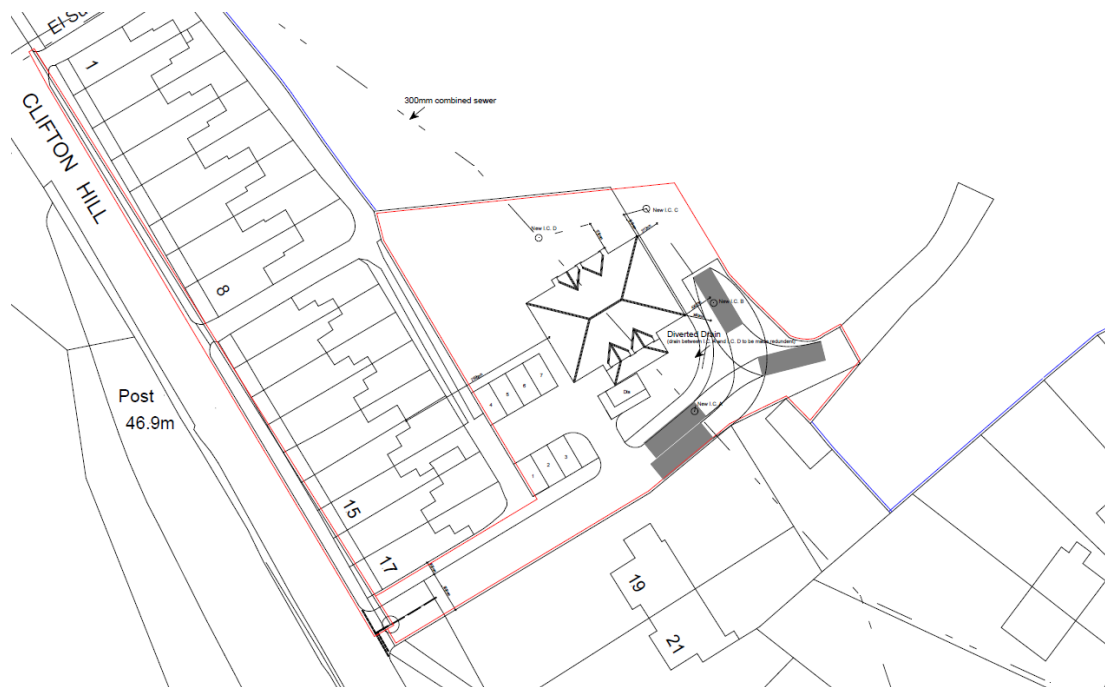
2.1 The application seeks the erection of 9 detached dwellings. The application was originally submitted for a much more intensive 74 dwelling scheme on 1.07 hectares with access from Clifton Hill. This has been significantly reduced in numbers and site area in order to overcome concerns from consultees and residents. The access has also been amended to Kendall Crescent with construction traffic from Clifton Hill.

2.2 The application site relates to land off Clifton Hill, Conisbrough. The site is a large rough grassland sloping greenfield site that slopes from east to west. To the south of the site and facing Clifton Hill are a series of terrace properties. To the west facing Doncaster Road is a garage and residential dwellings who's rear elevations face up the hill and onto this site. To the north is the established estate known as Kendal Crescent. The loop road provides access to the site with the immediate dwellings being No.55 who's side elevation runs along the site boundary.



3.0 Relevant Site History

3.1 11/03399/FUL - Erection of two storey nursing care home providing 4 individual units, shared facilities and separate office and carer accommodation (Class C2) following demolition of existing house (being re-submission of previous application 11/02563/FUL withdrawn 14/11/11). Granted 06.09.2012 subject to conditions. Permission now deemed expired.



3.2 The above was only the south corner of the site adjacent to the terrace properties 9-17 and accessed from Clifton Hill. A discharge of condition request was made, however not all of the pre commencement conditions were applied for. The request only considered conditions 2, 7 and 16, these being:-

Condition 2 – Contamination (partially agreed)

Condition 7 – Foul and Surface Water Drainage

Condition 16 – Materials

Conditions 10, 14 and 17 were also pre commencement and were not applied for.

3.3 Whilst an Initial Notice (15/01530/IN) was submitted for Building Control, no inspections were undertaken, there is no evidence on file of any building works having commenced and the applicants verbally confirmed at a meeting that a start had not occurred (26.6.19). This is important to establish as it would compromise the positioning of plot 5 due to the lack of separation and outlook/overlooking concerns.

3.4 01/3314/P – Outline application for the erection of 4 detached dwellings on 0.37ha of land. Refused due to an inefficient use of the site for 4 dwellings and due to its access from Kendal Crescent.

4.0 Representations

4.1 This application has been advertised in accordance with the Town and Country Planning Development Management Procedure (England) Order 2015 on two separate occasions. The first was the more intensive scheme, then re-consultation took place in late-September and mid-October 2018 to advertise the amended plans for the 9 dwellings now proposed:

4.2 New sites notices were displayed and the application appeared in the press 4th October 2018. 74 representations were received in total and 2 separate petitions against the scheme each containing 24 & 30 signatures (with some repetition of addresses on each).

4.3 Representations were also received from Councillors Nigel Ball, Ian Pearson and Lani Mae Ball.

4.4 The concerns as summarised below:

- Kendal Crescent is an extremely narrow road that already has illegal parking on both sides footpaths and regularly cannot have waste and recycling collections due to the fact that the vehicles cannot get down the road.
- The development will cause more cars, more vehicle movements all of which will have a significant impact on the residents of Kendal Crescent.
- The proposed houses would affect privacy of the dwellings on Clifton Hill through overlooking into back gardens, bathrooms and bedrooms.
- Concern over noise and dirt from the construction which would impact on living conditions.
- The field is currently an abundance of wildlife which would be destroyed if this application is granted and again this would impact the local wildlife and environment.
- Clifton Hill is a very busy and dangerous road. The rear gardens of the dwellings on Clifton Hill acts as a quieter and calmer environment for residents to be able to get away from the road noise. Houses being built on this rear land would severely impact on this so again affecting residents living conditions.
- Concern over the boundary wall that separates the site from the dwellings on Clifton Hill. This is said to be unstable and any disturbance may cause it to collapse and block the access to the rear of resident's properties. Also this wall is part of the original castle dwellings so should be protected.
- Concerned that it should be a new application. A lack of residents were notified on Kendal Crescent.
- Construction traffic would not be able to access the site via Kendal Crescent. At the moment all residents park illegally (kerb park) and even this leads to cars being damaged when the occasional delivery lorry attempts to gain access. This could lead to civil disturbances between contractors and residents.

5.0 Conisbrough Parks Parish Council

5.1 Objection due to traffic concerns on the original scheme.

6.0 Relevant Consultations

6.1 Yorkshire Water – Initially objected to the scheme due to the layout crossing a sewer. Revised plans were submitted and Yorkshire Water removed their objection based on revised site plan C that has a stand off of 3 m from the Sewer.

6.2 Trees – Initially requested a tree survey. This was supplied and the tree officer raised no objections subject to conditions covering tree protection and landscaping.

6.3 Ecology – Initially objected due to the lack of an ecological appraisal and failure to consider ecological enhancement. An ecological survey was later provided along with a badger report. The ecologist was satisfied with the content of the report and suggested conditions covering the need for a Precautionary Method Statement for badgers.

6.4 Environmental Health: No objection subject to conditions.

6.5 Design - Objection. Originally objected to the 73 dwelling scheme due to the intensity, layout, overlooking, functional problems and a poor quality streetscene internally. The amended plans overcome this concern. No objections.

6.6 Pollution Control Air Quality – Air Quality screening provided. No objections subject to a condition requiring Electric Vehicle charging points being provided in each dwelling.

6.7 Highways DM – Initial concerns over the internal layout of the access, manoeuvrability into and within the site, parking levels, visitor parking, the gradient of the access and several other technical matters such as verge widths, hard margin sizes. Concern was also expressed over the 'buildability' of the scheme with such a restrictive access. These concerns have been gradually overcome by the submission of amended plans and a Construction Traffic Management Plan (CTMP).

6.8 Local Plans Team (Public Open Space) No objections and no commuted sum required given its 9 dwellings. However, should this site layout be changed to incorporate more dwellings at any point, or should further housing come forward in the land which is referred to as "land reserved for future development", then this would need to be re-evaluated.

6.9 Drainage: Objection due to lack of detail provided. This is to be conditioned.

6.10 South Yorkshire Police: design consideration suggestions.

6.11 Cadent Gas Network – comments about pipeline on the western boundary of the site.

6.12 Education- No commuted sum required given the scheme is reduced to 9 dwellings.

6.13 Coal Authority – No objections low risk area.

6.14 Highways Transportation: No objection, no assessment required based on the numbers.

6.15 Waste Recycling Manager – Lee Richardson SUEZ, our collection contractor have advised that they don't have that many issues with access due to parked cars in this location.

6.16 Contamination – Information derived from historic maps shows that part of the proposed development site is located on a former garage. In addition, historic maps indicate that the application site is located within 50 metres of a historic landfill. Therefore concern exists that potential contamination may impact the development. Furthermore, as the application is for a sensitive end use, an appropriate contaminated land risk assessment should be carried out. Standard conditions suggested requiring a contamination assessment.

7.0 Relevant Policy and Strategic Context

7.1 The site is allocated as Residential Policy Area as defined by the Doncaster Unitary Development Plan (Proposals Map) 1998. The relevant policies make clear that residential development is acceptable in principle providing it would not adversely affect neighbouring properties or detrimentally affect the character of the surrounding area.

The relevant National and Local policies include:

National Planning Policy Framework (Feb 2019).

The NPPF establishes 12 'Core Planning Principles' to underpin plan-making and decision taking. Relevant sections include:

Principle 2 – Achieving Sustainable Development

Principle 5 – Delivering a sufficient supply of homes.

Principle 8 - Promoting Healthy and safe communities

Principle 12 - Achieving well designed places

Principle 14 - Meeting the challenge of climate change, flooding and coastal change

Principle 15 - Conserving and enhancing the natural environment.

Doncaster Council LDF

The statutory development plan for Doncaster currently comprises the Local Development Framework Core Strategy (adopted May 2012), and the saved Policies of the Doncaster Unitary Development Plan (adopted 1998) (including the Proposals Map). Relevant policies:

Policy CS1 Quality of Life

Policy CS2 'Growth and Regeneration Strategy'

Policy CS4 'Flooding and Drainage'

Policy CS 9 'Travel Choice'.

Policy CS14 'Design and Sustainable Construction'

Policy CS16 'Natural Environment'

Policy CS18 'Air, Water and Agricultural Land'

Doncaster Unitary Development Plan

The key saved policies of the UDP relevant to the current application are considered below:

PH 11 – Residential Development in Residential Policy Areas.
ENV 59 - Protection of Trees

Supplementary Planning Documents

Residential Development Design Guidance and Requirements (July 2015).

The emerging Doncaster Local Plan

This will replace the UDP and Core Strategy once adopted. The Council is aiming to adopt the Local Plan by summer 2020. Consultation on the draft policies and proposed sites took place during September and October of last year and the Local Plan is due to be published in early summer 2019. Given the relatively early stage of preparation of the emerging Local Plan, the document carries very limited weight at this stage.

Policy 1 reinforces the guidance within the NPPF in that there should be a presumption in favour of sustainable development.

Policy 2 sets out the settlement hierarchy for the borough and states that at least 40% of new homes will go to main towns.

Policy 14: Promoting sustainable transport within new developments

Policy 29: Open Space Provision in new development

Policy 43: Good Urban Design

Policy 49: Landscaping of New Developments

Policy 55: Pollution

Policy 57: Drainage

8.0 Planning Issues and Discussion

Main Issues

8.1 The main issues to consider are the principle of developing the site, siting and layout, impact on the character of the area, sustainability, the impact on the adjoining residential dwellings of Kendall Crescent and Clifton Hill, design, ecology, pollution, air quality, impact on the highway network and buildability of the scheme, impact on trees, drainage and consideration if any section 106 contributions are necessary.

Principle

8.2 The proposal is located within a Residential Policy Area as shown on the saved Unitary Development Plan, (UDP) where residential development is supported 'in principle'. The proposal is for a small residential scheme of C3 dwellings and as such is compatible with the local land use in the area. The site is within a highly sustainable location, being close to services, rail connections, schools etc. The principle of developing the site is therefore acceptable subject to layout, design and access as denoted in UDP policy PH 11.

Siting and Layout

8.3 Residential schemes need the right balance of space versus development to incorporate all the necessary parking, turning areas, good levels of amenity space for residents, visitor parking and separation of dwellings. The layout also has to work in terms of serviceability, drainage, street lighting to provide a residential development that is fit for the modern era. This was particularly challenging on this site given the gradients, however was helped by the relatively low density.

8.4 The scheme is accessed from Kendall Crescent and is arranged in a cul-de-sac formation to economically develop the site. The 9 dwellings proposed are a considerable reduction from the 74 dwelling initial proposal which was considered far too intensive. The site area has reduced from 1.07 Ha to 0.64 Ha meaning the density is around 14 per hectare, which is low in comparison with the general area. The area however will benefit from this reduced density given the constraints of the access and the geometry of the site. Less dwellings ultimately means less vehicle movements, a quicker build programme and less overall impact to residents. The 9 units proposed is regarded as a suitable compromise for the site.

8.5 There is also land identified as reserved for future development in the southern corner of the site (edged in blue) adjacent to the residential dwellings on Clifton Hill. This is proposed to be the compound for the development however doesn't form part of the application site. This land previously had permission for a two storey nursing home under 11/03399/FUL however this has since expired. Any future development of this site would be accessed from Clifton Hill. It will be fenced from the Plots 5 and Plot 4.

8.6 Similarly an area of land to the east has been removed from the application site and is an undeveloped area bound to the east by a former garage site. Again access would need to be taken from Clifton Hill if this site is ever developed in the future.



Character

8.7 As described in the introduction of the report all the land with the exception of the commercial use to the western concern is residential in use. The washed over Residential Policy Area designation means residential is the appropriate land use for the area and would accord with the surrounding residential land uses. The land is currently under-utilised presumably because of the constraints, however the proposed scheme has produced a workable scheme. The land is in private ownership, has no public rights of way through it and it not used due to its overgrown nature. Its development will lead to the loss of natural green space in the area, however this is not a reason for withholding permission.

8.8 The building heights are all 2-storey which is again compatible with the area. Its hillside location means it can be viewed from long distances and the design officer has had regard for this in amendments to the house designs. The scheme will of course be viewed against the backdrop of other residential dwellings which sit on higher ground. Finally the development will replace the open space with built form. This will naturally change the lands character however this is considered to have a neutral impact on the area. Below shows the site from No.55 Kendal, showing the sloping nature.



Sustainability

8.9 One of the key messages within the NPPF is sustainable development. This is through social, economic and environmental sustainability. It is recognised that the application site lies within settlement limits of Conisbrough and whilst being a greenfield site, it is very sustainably located with easy access to the facilities in the settlement and close to good public transport links into Doncaster and Rotherham.

8.10 The development will strengthen the residential offer in the settlement, provide some short term construction jobs and enable the settlement centre to retain and attract new services as the housing supply grows. On the negative side the land is relatively inefficiently used and is greenfield, however the site is surrounded on all sides, provides no new encroachment into the Green Belt that surrounds Conisbrough.

Impact on surrounding uses and

8.11 The proposal will develop a current greenfield site and inevitably change what was an open green landscape to that of built development and a residential use. Several residents have indicated concern over the potential for noise and disturbance during construction which is understandable. This is not a reason to refuse permission, however the environmental health team have suggested 2 conditions to help mitigate the nuisance caused through development. The submission of a Construction Method Statement is suggested as a condition and will cover the need to control parking of the builders, plant unloading, material storage wheel washing etc. The construction traffic is intended to be from Clifton Hill with the Kendal Crescent access only being opened once the development is nearing completion.

In addition a Construction Impact Management Plan condition is suggested which requires the developer to indicate measures to be taken to mitigate the effects of the construction activity and associated vehicle movements upon the living conditions of neighbouring residents and highway safety.

8.12 In terms of the actual living conditions of the potential new homeowners, the site is boarded on three sides by existing residential development and on the fourth side by a commercial premises (vehicle repairs). There is some potential for noise from these commercial premises to impact on the proposed residential properties, particularly the amenity/garden areas. The environmental health officer suggested a condition in requiring a continuous acoustic barrier to be constructed along the boundary of the site with the adjacent commercial premises, at minimum height of 2 metres to help mitigate against any noise.

8.13 Finally in terms of overlooking and outlook, the site is very self-contained with window to window distances, which all exceed the Residential Development Design Guidance and Requirements (July 2015) Supplementary Planning Document standards where they face the dwellings on Clifton Hill. The increased land levels means that the extra distance is welcomed and lessens the sense of overlooking and dominance of the new proposed dwellings. The remaining plots either look onto each other with adequate separation or overlook vacant land as shown on the site plan. Likewise the scheme represents no outlook or dominance concerns where the site adjoins the curtilage of No.55 Kendal Crescent.

Design

8.14 Planning Policy Principle 12 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and contributes positively to making places better for people. Policy CS 14 of the Doncaster Council Core Strategy sets out the local policy in relation to design and sustainable construction.

8.15 The design officer initially raised objections to the original scheme, citing issues of over development, resulting in a poor layout, overlooking, functional problems and a poor quality street-scene internally. The design officer considers the dramatically reduced scheme to be an improvement from an urban design / character perspective.

8.16 The fact that the site is visible from various viewpoints around Conisbrough and across the valley side, the issues of trees and landscaping are important. The original plans did not clarify what is proposed in terms of retention of existing edge plantings and proposed new landscaping. This was later confirmed by the tree survey which showed minimal retention and as such a new detailed planting scheme is necessary. Also given the wider visibility issues, the materials for the properties and their roofs are also important. Officers suggest red brick or a light sandstone / grey buff brick should be used for facing materials and predominantly grey roofs with possibly one or two terracotta. This is to be controlled by condition.

8.17 In terms of the design of the dwellings types A and C had quite steep roof pitches resulting in dominant and tall roofs. These were later lowered to be more akin to house type B. Also side windows were added to house type C i.e. Plot 9 to give this a dual aspect and improve the appearance of the side elevation onto Kendal Crescent. The design of the dwellings is therefore considered in accordance with NPPF Policy 12 and Policy CS 14 of the Core Strategy.

Ecology

8.18 Paragraph 170 of the NPPF states that the planning system should contribute to and enhance the natural and local environment, in regards to: valued landscapes, ecosystem services, biodiversity, pollution, and contaminated and unstable land. This is reiterated in Core Strategy Policy CS16: Valuing our Natural Environment, which seeks to ensure that Doncaster's natural environment will be protected and enhanced.

8.19 The land within the development boundary is predominantly a north west facing grassland slope with a mix of immature trees and overgrown shrubs on the boundaries. The semi improved grassland may have historically been used for informal grazing or hay cropping for some time. There are also areas of tall ruderal, disturbed bare ground remnant walls and small buildings plus a large metal clad building. The area to the south east boundary is very overgrown and inaccessible.

8.20 The ecological officer initially objected due to the lack of an ecological appraisal. This was later provided by the submission of the Estrada Ecology, Preliminary Ecological Appraisal (PEA) of 32/03/2017. The PEA does confirm the potential for protected species to be occupying the site. As recommended in the conclusion of the PEA at Section 6 a phase 2 badger survey was carried out to ascertain if badgers are using the site, if so, to what extent and would proposed activities need to be licenced or require avoidance/ mitigation measures to ensure no offences under the Wildlife and Countryside Act 1981 as amended are committed.

8.21 The badger survey report by Estrada Ecology was submitted which ruled out the presence of Badgers using the site. The survey recommended various precautions once development commences which is covered in a precautionary method statement condition.

Ground Conditions/Air Quality

8.22 Paragraph 179 of the NPPF states: 'Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.' Paragraph 180 of the NPPF confirms that decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. This is reflected in Core Strategy Policy CS18: Air, Water and Agricultural Land, seeks to ensure that Doncaster's air, water and land resources will be conserved, protected and enhanced, both in terms of quantity and quality.

8.23 Information derived from historic maps shows that part of the proposed development site is located on a former garage. In addition, historic maps indicate that the application is located within 50 metres of a historic landfill. Therefore concern exists that potential contamination may impact the development. Furthermore, as the application is for a sensitive end use, an appropriate contaminated land risk assessment should be carried out. This is to be controlled by suitably worded planning conditions.

8.24 In terms of air quality the pollution team requested Air Quality screening to be carried out. This was undertaken by the applicant, the results of which were assessed by the Pollution Control officer. Whilst the assessment shows that the site is in an Air Quality Management Area (AQMA), the Pollution Control officer states that as the site is located 45m from Doncaster Road they accept the proposed mitigation in the form of charging points in every garage - which is included as a planning condition.

Highways Parking

8.25 With regard to highway safety and parking, this should be considered against policy CS 14 of the Doncaster Unitary Development Plan which states that new development should ensure quality, stability, safety and security of private property, public areas and the highway, permeability and legibility.

8.26 There has been significant representation from local residents about the narrowness of Kendal Crescent and that it would be impossible to access the site from Kendall Crescent to implement the build as HGV's would not be able to negotiate the tight roads that are further constrained by on street parking. Comments have been made about the lack of off street parking and the further intensification of the use of the road as a result of this proposal.

8.27 The proposed site plan shows a good level of parking within the site, with 2 visitor spaces on the main carriage way and many of the dwellings have more than the required 2 car parking spaces per dwelling due to the length of the driveways. Therefore it is not envisaged that parking from the development would spill out onto Kendal Crescent. The development will inevitably cause more trips as a result of the 9 households however the Highway Officer were content that the existing junctions were capable of accommodating the additional flows.

8.28 The Highway Officer raised several concerns with the initial layout. This related to matters such as the extent of the footways, hard margins, in sufficient turning areas, length of private drives, carriageway widths, lack of parking for residents and visitors. Other concerns included the gradient of the driveways which were sub-standard and too steep. This has all been addressed by the submission of amended plans.

8.29 In terms of the access, in an attempt to address resident's concerns it was proposed to have all construction traffic entering from Clifton Hill. The applicants have demonstrated that large vehicles can access the site via Clifton Hill and a Construction Management Plan shows a compound, parking and welfare cabin in land outside the application site but within the applicant's ownership. This prevents the need for any construction traffic entering the site via Kendal Crescent and will therefore contain the nuisance factor to the Clifton hill end of the site. Below shows the Kendall Crescent looped access.



Trees

8.30 Core Strategy Policy CS 16 (D) states that proposals will be supported which enhance the borough's landscape and trees by: ensuring that designs are of high quality, include hard and soft landscaping, a long term maintenance plan and enhance landscape character while protecting its local distinctiveness and retaining and protecting appropriate trees and hedgerows. Policy ENV 59 of the Doncaster Unitary Development Plan seeks to protect existing trees, hedgerows and natural landscape features.

8.31 The original submission contained no tree survey, which was accordingly requested by the Tree Officer. This was undertaken by Weddle Landscape Design and showed main groupings on the southern western and northern boundaries. The information also contained a tree protection and constraints plan. The Tree Officer stated that the assessment was basic, but gives a fair assessment of what is on site.

8.32 The survey doesn't identify any existing trees or hedges that merit retention within the development and as a result there isn't considered a need to alter the existing proposal from an arboricultural perspective. As a result the tree protection plan (KCC 03) that shows what is going to be removed, retained and how the retained trees will be protected is acceptable.

8.33 The main consideration will be to agree a good soft landscaping plan via condition. This is because the site is visible from a number of view points in the wider area and the soft landscaping scheme will be key in helping to soften its appearances in the landscape. Officers are now satisfied that the above matters can be suitably controlled by a tree protection condition and the need for a full detailed landscape plan.

Drainage

8.34 The proposal didn't not contain any drainage information which is required for major applications, however given the proposal is now only 9 dwellings it falls under the major threshold. As such matters such as drainage can be suitably controlled by condition. It is envisaged the mains drainage will be via the public sewer and surface water to soakaway if ground conditions permit.

Viability and contributions

8.35 The initial scheme hit all the triggers for affordable housing, education and POS contributions. The dramatically reduced 9 dwelling scheme now sits under the threshold for all contributions.

9.0 Summary and Conclusion

9.1 The application sees the development of a sustainable greenfield site in the heart of an existing residential area. The site due to its gradient and restricted access will add to the existing vehicle flows using Kendall Crescent, however the applicants have successfully shown that the build can be accessed from Clifton Hill. The build will cause some localised nuisance during the build however this is not a reason to withhold permission. The applicant through the submission of the necessary reports requested from consultees has proven no harm exists to trees, ecology and potential concerns around air quality have been mitigated through proposed conditions. The proposal is deemed acceptable on account of its layout, parking, design and impact on surrounding residents.

Having balanced all of the material planning considerations, the application is compliant with the development plan and the NPPF and there are no material considerations which indicate that the application should be refused, therefore the recommendation is to grant the application subject to suitably worded conditions.

10.0 Recommendation

10.1 Planning permission be granted subject to the following conditions:

01. STAT1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
REASON
Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. U0064797 The development hereby permitted shall be carried out in complete accordance with the details shown on the amended plans referenced and dated as follows:

Visibility Splay drawing 05 date 7.6.18

House Type A . Drawing 01 Rev A
House Type B . Drawing 01
House Type C . Drawing 01 Rev C

Site section A Drawing 02 Rev C
Site section B Drawing 03 Rev B
Site section C Drawing 04 Rev A

Location plan 1:1250 and Block plan 1:500 Drawing 06 Rev A - dated 7/19/18

Site Plan Drawing 01 - Rev J

Badger report recommendations report dated 5.3.19 MAX.18.1.2019.

Construction Management Plan Revision B 10.7.19 version 3.

REASON

To ensure that the development is carried out in accordance with the application as approved.

03. CON1 No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.

a) The Phase I desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.

b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.^{Page 45}

c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework. This is required prior to commencement to ensure that the necessary mitigation measures can be put in place should any contamination be found.

04. CON2

Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

05. CON3 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filing and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.
REASON
To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.
06. U0054114 Prior to commencement of the development hereby approved, a scheme for a continuous acoustic barrier constructed along the boundary of the site with the adjacent commercial premises, of minimum height of 2 metres and minimum surface density of 10 kg/m² shall be submitted to and approved in writing by, the LPA. All works which form part of the approved scheme shall be completed before first residential occupation. The barrier shall be retained throughout the life of the development.
REASON
To protect the local amenity of nearby residents in accordance with Core Strategy policy CS 14.
07. U0067484 The erection of fencing for the protection of any retained tree (T2 and T3 as shown on plan KCC 03) shall be undertaken in accordance with the approved plans and particulars (reference - TREE SURVEY KCC 01, Tree Constraints Plan KCC 02 and Tree Protection Plan KCC 03) before any equipment, machinery or materials have been brought on to 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 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 LPA.
REASON
To ensure that all retained trees are protected from damage during construction.

08. U0067485 No development shall take place on the site until a detailed landscape scheme has been submitted to and approved in writing by the LPA Unless otherwise approved in writing by the LPA the landscape scheme shall include: a planting plan and schedule including hedging and tree planting to include small, medium and large species; hard landscape; a landscape establishment specification; detail on how the trees will be supported (i.e. staking/guying and its configurations) and a maintenance specification for a minimum of five years following practical completion of the landscape works following the guidance in BS 8545:2014 Trees: from nursery to independence in the landscape - Recommendations and BS 3936-1: 1992 Nursery stock — Part 1: Specification for trees and shrubs. Development shall be carried out in accordance with the approved scheme.

REASON

In the interests of environmental quality

For the landscaping it suggested the landscape architect for the project refer to Doncaster Council Development Guidance and Requirements: Supplementary Planning Document (July 2015) section 8.0 Landscape, Trees and Hedgerows for further guidance.

09. MAT1A

No development of a building shall take place until details of all external facing materials have been submitted to and approved in writing by the LPA. The relevant works shall be carried out in accordance with the approved materials.

REASON

To ensure that the materials are appropriate to the area in accordance with policy CS14 of the Doncaster Core Strategy.

10. DA01

The development shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the LPA. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the LPA Authority prior to the occupation of the development.

REASON

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.

11. U0071274

No development shall take place without the following precautionary measures being carried out in full.

- a) A pre-commencement toolbox talk to be delivered to the contractors in order to explain the presence of bats, their legal protection, roles and responsibilities.
- b) A named and suitably qualified on-call ecologist shall be available to address any ecological and wildlife protection concerns.

- c) During construction works if any new badger setts are identified on or within 30m of the site all works should cease and the named ecologist be consulted.
- d) Prior to construction works Heras fencing should be erected around the construction zone and maintained throughout the construction phase, to deter any badgers from entering the site.
- e) Any excavations on site and piping over 200mm should be fenced off or covered overnight to prevent entrapment of badgers.
- f) Holes that cannot be covered must be provided with a means of escape for any badgers that may fall into the excavations such as a wooden ramp of suitable dimensions and strength as a means of escape.
- g) Prior to the commencement of works each day, holes and excavations shall be checked by a designated site worker to ensure no badgers have become trapped overnight. The Heras fencing should also be checked for any damage any found shall be made good.
- h) If a badger is found or there is evidence that a badger has dug a temporary cover then works shall cease and the on-call ecologist contacted.
- i) No piles of cut vegetation and brash shall be removed and disposed of to prevent temporary use as cover by badgers. Excavated material should be disposed of where possible to prevent badgers from excavating temporary cover.
- j) Working should be restricted to daylight hours only. Should any artificial lighting be required then it should only illuminate the intended subject/area and no overspill should be allowed.

REASON

To ensure the ecological interests of the site are maintained in accordance with Core Strategy Policy 16 and that no offence is committed in respect of protected species legislation.

12. EV charging

Prior to the occupation of the development hereby approved, details of electric vehicle charging provision shall be submitted to and approved in writing by the LPA. The installation shall comply with current guidance/advice. No dwellings within the development shall be occupied until the approved connections for the electric vehicle charging provision have been installed in accordance with the approved details and are operational. The connections for electric vehicle charging provision shall be retained and operationally maintained for the lifetime of the development.

REASON

To contribute towards a reduction in emissions in accordance with air quality objectives and providing sustainable travel choice in accordance with policies CS9 and CS18 of the Doncaster Council Core Strategy.

13. High 1 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the LPA.
REASON
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
14. High 11 The development hereby approved shall not be brought into use until a crossing over the footpath/verge has been constructed in accordance with a scheme previously approved in writing by the local planning authority.
REASON
To avoid damage to the verge.
15. Before the development is brought into use, visibility splays shown to the nearside kerb on plan reference 1734 number 05 dated 07/06/2018 shall be rendered effective by removing or reducing the height of anything which is visible at any height greater than 900mm above the level of the nearside channel of the public highway. The visibility thus provided shall thereafter be maintained as such.
Reason: In the interests of road safety.
REASON
In the interests of highway safety.
- 01 INFORMATIVE
Works carried out on the public highway by a developer or anyone else other than the Highway Authority shall be under the provisions of Section 278 of the Highways Act 1980 and adoption of the new access road shall be carried out under Section 38 of the Highways Act. The S38 and S278 agreements must be in place before any works are commenced. There is a fee involved for the preparation of the agreement and for on-site inspection. **The applicant should make contact with Malc Lucas – Tel 01302 735110 as soon as possible to arrange the setting up of the agreement.**
- 02 INFORMATIVE
Doncaster Borough Council Permit Scheme (12th June 2012) - (Under section 34(2) of the Traffic Management Act 2004, the Secretary of State has approved the creation of the Doncaster Borough Council Permit Scheme for all works that take place or impact on streets specified as Traffic Sensitive or have a reinstatement category of 0, 1 or 2. Agreement under the Doncaster Borough Council Permit Scheme's provisions must be granted before works can take place. There is a fee involved for the coordination, noticing and agreement of the works. **The applicant should make contact with Paul Evans – Email: p.evans@doncaster.gov.uk or Tel 01302 735162 as soon as possible to arrange the setting up of the permit agreement.**

03

INFORMATIVE

Street lighting design and installation is generally undertaken by the Local Highway Authority. There is a fee payable for this service and the applicant should make contact with **Fiona Horgan – Tel 01302 735097 or e-mail Fiona.Horgan@doncaster.gov.uk** as soon as possible. Further information on the selected DNO / IDNO together with the energy supplier will also be required as soon as possible as they directly affect the adoption process for the street lighting assets.

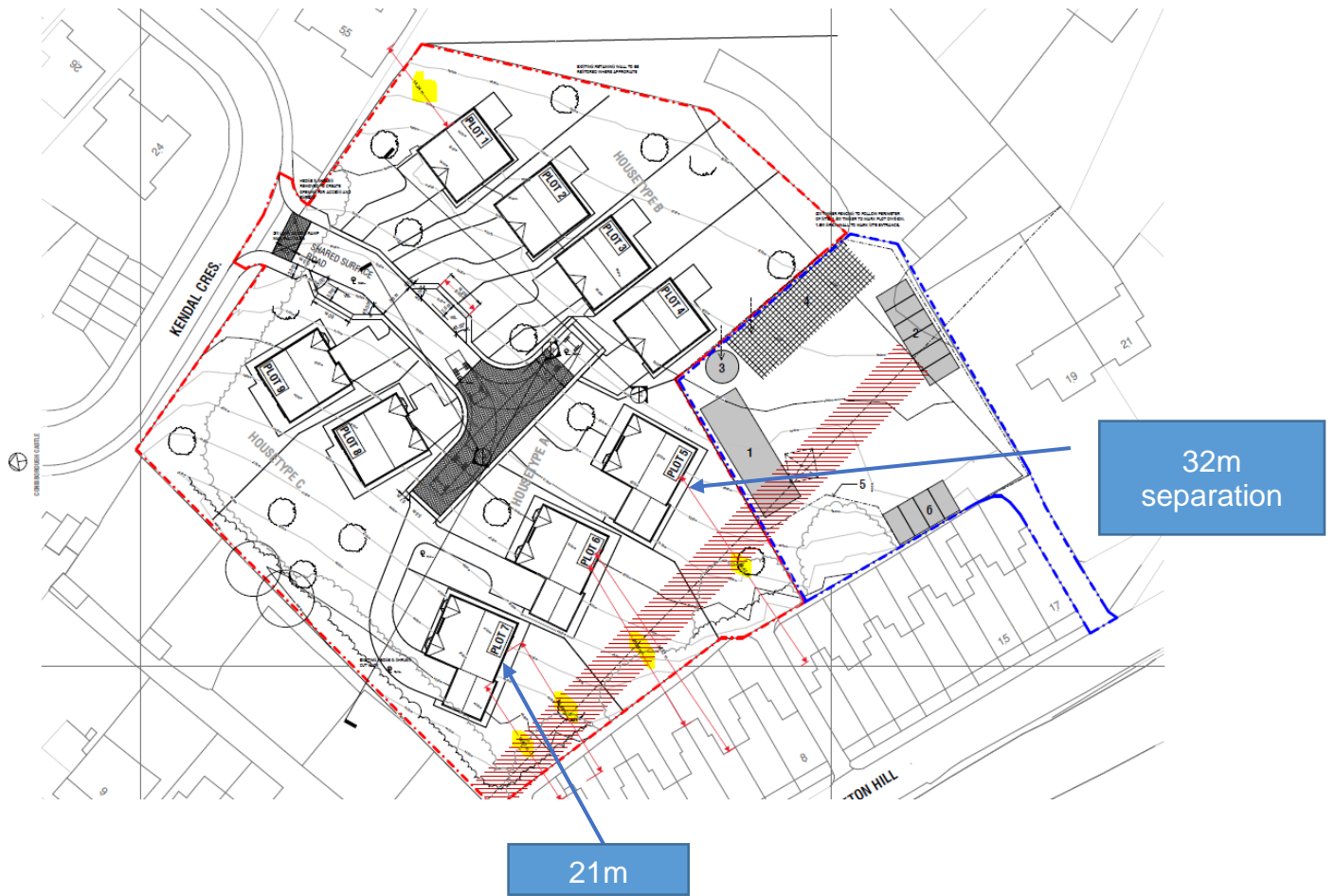
04

INFORMATIVE

The developer shall ensure that no vehicle leaving the development hereby permitted enter the public highway unless its wheels and chassis are clean. It should be noted that to deposit mud on the highway is an offence under provisions of The Highways Act 1980.

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1 – Separation layout.



Appendix 2 –

House type A

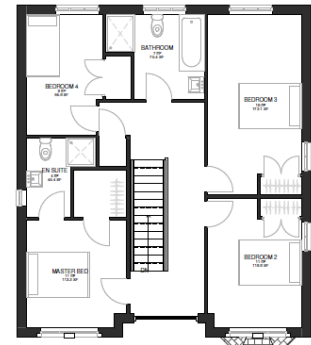
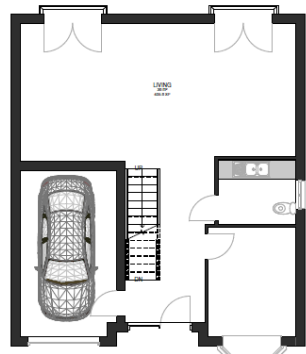
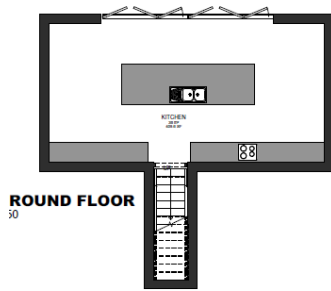
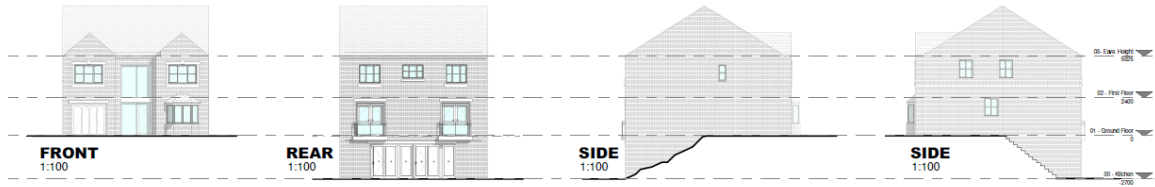


House Type B



House Type C

No.	Date	Drawn	Checked
01	17/03/18	MM	MM



Room Schedule		
Name	Level	Area
LIVING	01 - Ground Floor	38 m ²
BEDROOM 4	02 - First Floor	9 m ²
BEDROOM 3	02 - First Floor	10 m ²
BEDROOM 2	02 - First Floor	11 m ²
MASTER BED	02 - First Floor	11 m ²
BEN SUITE	02 - First Floor	4 m ²
BATHROOM	02 - First Floor	7 m ²
KITCHEN	00	38 m ²

Area Schedule (GIA)		
Level	Area	
02 - First Floor	34 m ²	
01 - Ground Floor	34 m ²	
00 - Kitchen	38 m ²	

MaxDesign
 Architecture | Planning | Consultancy

The White House, 279 Bawtry Road, Doncaster DN4 7PD
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status: **PLANNING**

client: **C.Morte**
 project: **Clifton**
 title: **Housetype C Proposal**
 scale: **As Indicated** date: **03/05/18**

PROJECT NO:	1734	TEAM NUMBER:	ZY 01	REV:	C
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Appendix 3 – site compound



Appendix 4 – Original submitted scheme



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DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 23rd July 2019

Application 3

Application Number:	19/01202/FUL	Application Expiry Date:	Extended until 30 th July 2019
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Application Type:	Full Application
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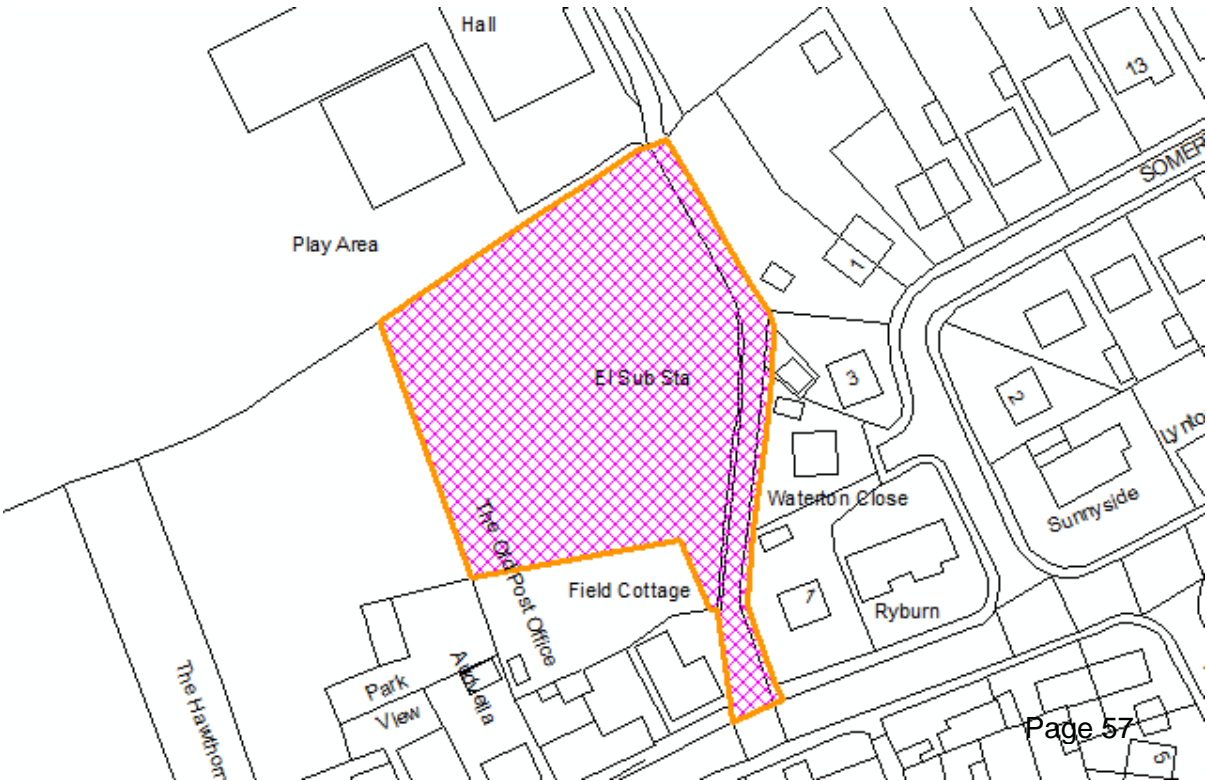
Proposal Description:	Erection of 5 detached dwellings with garages and provision of enhanced access drive to the neighbouring Community Centre
At:	Land At Field Cottage Main Street Hatfield Woodhouse Doncaster

For:	Mr Peter Thompson
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Third Party Reps:	5 representations	Parish:	Hatfield Parish Council
		Ward:	Hatfield

Author of Report	Dave Richards
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MAIN RECOMMENDATION:	Refuse
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1.0 Reason for Report

1.1 The application is being presented to Planning Committee at the request of Councillors Joe Blackham, Derek Smith and Linda Curran, who support the application for the reasons detailed below.

2.0 Proposal and Background

2.1 The proposal seeks full planning permission for the erection of 5 detached dwellings with garages on land to the rear of Field Cottage, which is located on Main Street, Hatfield Woodhouse.

2.2 The application follows the refusal of planning reference 17/01955/FUL in March 2019 at Planning Committee. The only difference between the two applications is a 600mm footpath has been added to the existing access to the community centre.

2.3 The decision to refuse planning reference 17/01955/FUL has been appealed by the applicant and a decision will follow later this year. This proposal was also refused in 2015. The subsequent appeal to that application was dismissed by the Planning Inspectorate in 2016. A copy of the appeal decision notice is shown in appendix 1 of this report.

2.4 The application site consists of an area of agricultural land where development would be served by a private drive. The site is to the west of Somerton Drive, to the south of the Village Hall and north of Main Street with agricultural fields adjacent nearby. All dwellings are substantial, detached properties. All properties are proposed to be constructed from red brickwork, with red clay pantile roofs. Each property has a double garage, some are attached, and some detached.

3.0 Relevant Planning History

3.1 00/0150/P - Outline application for residential development on approx. 0.6ha of land - Refused for the following reasons;

1. The site of the development lies within Countryside Policy Area in the Doncaster Unitary Development Plan. The proposal represents the undesirable and unjustified introduction of residential development beyond the recognised limits of the settlement. Within the Countryside Policy Area it is the policy of the Council to restrict residential development except where there is an agricultural or security justification. No such justification applies in this case and the proposal is therefore contrary to Policy ENV14 of the Doncaster Unitary Development Plan.

2. The proposal would result in an intensification of the use of an existing substandard access to the detriment of public and road safety.

3.2 15/01251/FUL - Erection of 5 detached houses with garages on approx. 0.39 ha of land – Refused for the following reason:

The proposal is contrary to saved policies ENV2 and ENV4 of the Doncaster Unitary Development Plan, and policy and CS3 of the Doncaster Council Core Strategy in that it represents inappropriate development within the countryside which would neither protect or enhance the countryside or preserve its openness. Furthermore, the proposal does not constitute quality infill within the defined settlement limits, and as such is contrary to policy CS2 of the Doncaster Council Core Strategy.

3.3 The applicant subsequently appealed the decision to the Secretary of State who dismissed the appeal in September 2016 (referred to as the appeal decision).

3.4 17/01955/FUL - Erection of 5 dwellings with garages and associated works – Refused for the following reason:

The development would cause harm to the character and appearance of the countryside and would conflict with the approach to the location and supply of housing in Policies CS2 and CS3 of the Core Strategy and Saved Policies ENV2 and ENV4 of the UDP. Furthermore, the proposal does not constitute quality infill within the defined settlement limit for Hatfield Woodhouse contrary to Policy CS2 of the Core Strategy.

3.5 The applicant has appealed this decision to the Secretary of State and an appeal is pending with a decision likely to be later this year.

4.0 Representations

4.1 This application has been advertised in accordance with the The Town and Country Planning (Development Management Procedure (England)) Order 2015.

4.2 Councillor Derek Smith supports the application on the basis that it would improve the single track lane between the new homes and the village hall to allow two cars to safely pass when using the hall car park. This has the support of the hall users and many residents.

4.3 Councillor Joe Blackham supports the application and spoke at the previous planning committee meeting where the similar scheme (17/01955/FUL) was refused.

4.4 Councillor Linda Curran supports the application for the following reasons:

- The site is land locked and has been subject to tipping and pest issues
- Hatfield Woodhouse is a popular location where there has been infill development
- The application would supply housing and improve the area
- The access to the village hall is proposed to be upgraded which may double as overspill parking for the local primary school, improving highway safety

4.5 The Head of Highways and Road Safety at DMBC is supportive of measures which may improve safe access to the community facilities, and give opportunities for school parking away from the main road.

4.6 The Director of Public Health supports the application, noting the *improved access to the community centre will have a positive effect on congestion and in particular would increase safety for children and parents associated with Hatfield Woodhouse Primary School. With appropriate design control, the development would not cause harm to the character or appearance of the countryside and would provide quality infill.*

4.7 Whilst the comments from the Director of Public Health are noted, the application has not significantly altered from the previous refusal other than the inclusion of a 600mm footpath. It is maintained that the proposal would result in harm to the character and appearance of the countryside and would not represent quality infill. These comments are shared by the planning Inspector in his decision letter in 2016. Paragraphs 13, 14 and 15 deal specifically with this matter and the Inspector concluded that the development *would not preserve the openness of the Countryside, the purpose of including the site within it and would not result in a more defensible settlement boundary. I therefore consider that the proposal would be unacceptable development in the countryside as it would not comprise one of the types of development that Policy CS3 of the Core Strategy permits in the countryside and would harm its character.* A copy of the full inspectors decision is included within Appendix 3.

4.8 A letter of support has been received from the Chairman of the Hatfield Woodhouse Village Hall noting that:

- The development will provide more security to users of the village hall.
- The committee has been assured by the developers that the approach lane will be upgraded and widened with dedicated pedestrian provision
- The current arrangement leads to congestion during busy times when using the village hall and parents dropping off and picking up their children for school.

4.9 The Principal of Hatfield Woodhouse Village School has written in support of the application noting efforts to encourage parents to park at the community centre rather than parking on Main Street.

5.0 Hatfield Town Council

5.1 The Town Council have objected to this proposal and reiterate the comments previously submitted:

There is concern that the application does not differ significantly from a previous application for 5 executive style houses on the site that has already been refused and subject of an unsuccessful appeal. The site lies within a Countryside Protection Policy Area and is contrary to the policies. There is further concern that the minor improvements to the access road should not outweigh the planning officers and Inspectors previous decisions.

6.0 Relevant Consultations

6.1 Public Rights of Way Officer:

The applicant has confirmed that the existing public footpath number 34 Hatfield will be not be obstructed. The proposed “new footway” is to be a lined demarcation only. No new public rights of way are to be provided for.

6.2 Highway Officer:

No objections (subject to conditions). Given that the development proposes a private drive, the applicant should ensure that the village hall are given a formal right of access over the shared portion of the drive.

The boundary treatment for plot five should be dropped to no higher than 900mm where the plot forms a point adjacent to the access road to ensure visibility between vehicles leaving the Village Hall and residents of the private drive.

Visibility is restricted to the east when exiting the site due to the exiting boundary treatment, however considering the trips associated to the various uses of the village Hall, the development of 5 properties in this location is not considered to have a material effect to the operation of the junction with the A614.

6.3 Tree Officer:

No objections. I was aware of the felling of the trees that were adjacent to the access to the village hall and from the information contained with the tree report it would appear that their felling was justified. Trees are not an issue with this site and, as the tree report states, it is the hedgerows that provide the rural character here. The site plan does not indicate what the intention towards these boundary hedgerows is. Whilst it would be desirable for them to be retained (in terms of rural character of the settlement edge) as soon as the hedgerows form part of a domestic curtilage they move beyond the scope of the Hedgerow Regulations and, after the expiry of any planning condition that may have ensured their retention, the hedgerows can be removed without any recourse to obtaining any form of LPA consent (the tree survey is wrong to suggest that the hedgerows fall beyond the scope of the Hedgerow Regulations as the scope of these Regulations extends beyond that of 'agricultural land'). Hence, the hedgerows here have to be an active part of the scheme in order to have a chance of surviving in the long term. This is the preferred option and it would be appreciated if the intention as to boundary treatment is clarified. A landscaping condition will be required.

6.4 Ecology Officer:

I am happy with the ecological appraisal that has now been submitted in support of this application. While protected species are not an issue the report outlines the importance of the site as a wildlife corridor and recommends the retention of the existing field boundary trees and hedgerows. From an ecology point of view I would like these to be retained as part of the development along with an adjacent narrow grass verge. This could be subject to an appropriate condition.

6.5 National Grid:

Apparatus affected and the developer will be required to contact prior to the commencement of development.

6.6 Drainage Officer:

No objections.

7.0 Relevant Policy and Strategic Context

7.1 The following local and national planning policies are relevant:

Doncaster Core Strategy (adopted 2012)

Policy CS1 - Quality of Life
Policy CS2 - Growth and Development Strategy
Policy CS3 - Countryside
Policy CS10 - Housing Requirement, Land Supply and Phasing
Policy CS14 - Design and Sustainable Construction
Policy CS16 – Protecting our Natural Environment

Doncaster Unitary Development Plan (UDP) (adopted 1998)

Policy ENV2 - Countryside Policy Area Designation
Policy ENV4 - Development within Countryside Policy Area

7.2 Other material considerations include the National Planning Policy Framework (NPPF) (2019) and National Planning Policy Guidance (NPPG); as well as the Development Requirements and Guidance Supplementary Planning Document (2015) and the Doncaster Landscape Character and Capacity Study (2007).

7.3 The Council is aiming to adopt the Local Plan by summer 2020. Given the relatively early stage of preparation of the emerging Local Plan, the document carries very limited weight at this stage although the following policies would be appropriate:

Policy 1 : Presumption in favour of sustainable development (Strategic Policy)
Policy 2 : Spatial Strategy and Settlement Hierarchy (Strategic Policy)
Policy 3 : Level and Distribution of Growth (Strategic Policy)
Policy 18: Walking in Doncaster
Policy 19: Development affecting public rights of way
Policy 26 : Development in the Countryside
Policy 34 : Landscape (Strategic Policy)
Policy 42 : Character and Local Distinctiveness (Strategic Policy)
Policy 45 : Residential Design (Strategic Policy)
Policy 46 : Housing Design Standards (Strategic Policy)
Policy 49 : Landscaping of New Developments

7.4 As noted above, the site has very recent planning applications which are a material consideration to this application. The appeal decision relating to planning reference 17/01955/FUL attracts significant weight.

8.0 Planning Issues and Discussion

8.1 The main issues include the principle of residential development within the countryside and impact on the character and appearance of the countryside. This is balanced against other material considerations within the report.

Planning Policy

Policies ENV2 and ENV4

8.2 The site is located outside of any recognised settlement boundary in the UDP and within the Countryside Policy Area (CPA) according to Policy ENV2. Policy ENV4 sets out the types of development that would be permitted within the CPA, none of which are relevant to the proposal. The proposal would not comply with any other suitable policy in the UDP.

Policy CS2

8.3 Policy CS2 of the Core Strategy sets out the spatial strategy for the sustainable development of Doncaster, which supports a policy of settlement hierarchy to ensure that the scale of new development is appropriate in relation to the size, function and regeneration opportunities of each particular location. Hatfield Woodhouse is a 'Larger Defined Village' which should accommodate new dwellings within the defined settlement boundary. The proposal would lie outside the settlement boundary for Hatfield Woodhouse and would not comply with Policy CS2.

Policy CS3

8.4 The site is also within a Countryside Protection Policy Area (CPAA). The supporting text to Policy CS3 B) indicates that the outer boundaries of existing built up areas where they adjoin countryside are under constant pressure for often minor but cumulatively significant small-scale housing developments. The proposal would undoubtedly reduce openness in the countryside and conflict with Policy CS3 B).

8.5 Policy CS3 D) states that proposals which are outside development allocations will only be supported where they would:

1. protect and enhance the countryside, including the retention and improvement of key green wedges where areas of countryside fulfil a variety of key functions;
2. not be visually detrimental by reason of siting, materials or design;
3. not create or aggravate highway or amenity problems; and;
4. preserve the openness of the Green Belt and Countryside Protection Policy Area and not conflict with the purposes of including land within them.

8.6 The significance of protecting the character of the countryside in this location is informed by the Doncaster Landscape Character and Capacity Study (LCCS). The LCCS considers the landscape to be of moderate quality, to be moderately tranquil and to have an overall *moderate landscape value*. The landscape strategy identified for this area (designated as H2) is to '*create and strengthen.*'

8.7 The application site provides a defensible boundary and distinguishes it from the built up area. In terms of the capacity for development, the development would result in an open paddock of countryside character being developed whereas the site currently has no buildings or other development within it. This loss of openness would be most apparent from Main Street and a public footpath via the site access. The proposal therefore cannot be supported under Policy CS3 D.

8.8 It is acknowledged that Policy ENV4 is not up to date when assessed against the guidance set out in the NPPF. Accordingly, only limited weight can be applied to the conflict with this policy. Even so, the Council can demonstrate a five-year housing land supply and there is conflict with other policies which set out the hierarchy for allocating housing in the Borough and protecting the countryside on the edge of smaller scale villages from inappropriate harm.

8.9 This opinion is reinforced by the findings of a Planning Inspector who considered a very similar proposal for housing on the site. In his summing up, the Inspector concluded that 'the proposal would be unacceptable development in the countryside, as it would not comprise one of the types of development that Policy CS3 of the Core Strategy permits in the countryside and would harm its character'. A recent appeal decision for the same development carries significant weight in any planning decision.

8.10 In summary, the development would conflict with the countryside protection policies provided under Policies CS2 and CS3 of the Core Strategy and Policies ENV2 and ENV4 of the UDP.

Other considerations

8.11 Consistent with the previous application, it is not considered that the proposed dwellings would have an adverse impact upon the residential amenities of those living nearby, or give rise to issues with highway safety. Furthermore, the loss of agricultural land has been previously judged to be acceptable and there is limited ecological and arboricultural interest on the site other than hedgerows which could be retained. Other consultee comments could be reasonably satisfied by planning conditions in the event that the development was found to be acceptable. Neutral weight can be applied towards the development complying with the development plan in other respects.

9.0 Balancing exercise

9.1 As noted by supporters of the application, there would be limited benefits in terms of increased natural surveillance of the village hall and its playing fields, together with improvements to vehicular and pedestrian access. Without this development, the widening of the road would have to be funded by other means. The amount of weight applied is very limited given the widening of the whole access is not necessary to make the development acceptable. Any such worded condition would therefore be likely to fail the test as set out in paragraph 55 of the National Planning Policy Framework for when an LPA should use planning conditions when construing a planning permission.

9.2 Local representations have suggested that the widening of the access road would also assist in enabling drop offs and pickups associated with the local primary school. This would be a private agreement which this planning permission could not control and therefore limited weight can be applied towards justifying the development.

9.3 Weighing against the proposal is the conflict with development plan policies, which seek to protect the countryside from encroachment and to encourage sustainable development. The NPPF does not change the statutory status of the development plan as the starting point for decision making. This is reflected in the decision by the Secretary of State to refuse planning permission for a very similar development. This decision carries significant weight.

9.4 As part of any planning application, the NPPF is a material consideration. The proposal would make a modest contribution to providing housing for the Borough. There would be a modest benefit during the construction phase, as well as support for local services. The proposal would cause harm to the character of the area in terms of environmental impact. Taking the three dimensions together, the proposal would not be sustainable development.

10.0 Conclusion

10.1 The Council can demonstrate a five-year housing land supply, meaning the development plan is sound in allocating housing to the hierarchy set out in Policy CS2 and protecting the countryside from inappropriate harm under CS3. Although Policies ENV2 and ENV4 of the UDP are now of some age, this is reflected in attracting limited weight in terms of applying the overall development plan.

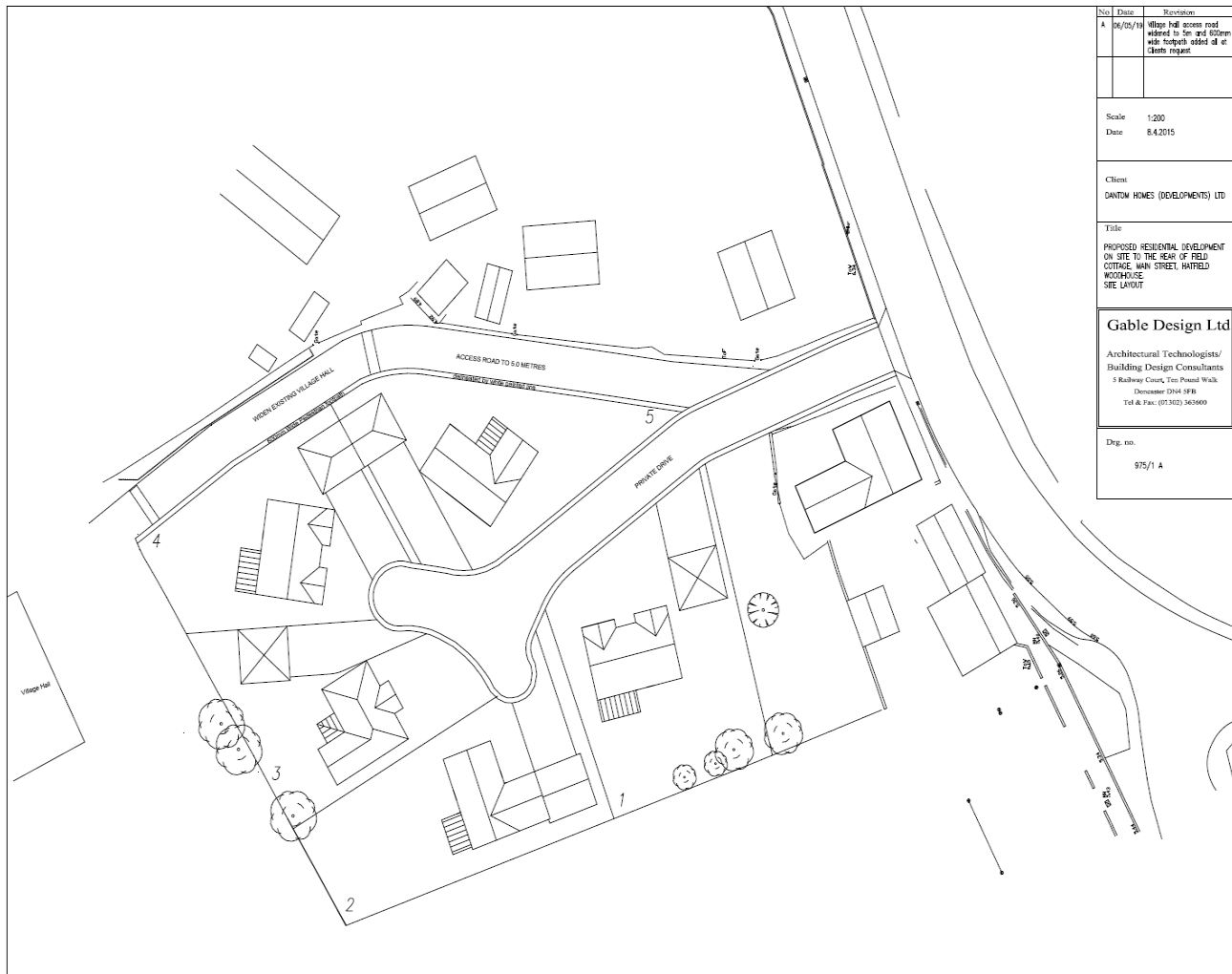
10.2 Planning law and the NPPF requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the material considerations are the supply of housing and the provision of a widened access road to Hatfield Woodhouse which has attracted local support. However, taken as a whole, the limited weight which can be applied towards these considerations is significantly and demonstrably outweighed by the conflict with the development plan as a whole.

11.0 Recommendation

11.1 Planning Permission **REFUSED** for the following reason:

The development would cause harm to the character and appearance of the countryside and would conflict with the approach to the location and supply of housing in Policies CS2 and CS3 of the Core Strategy and Saved Policies ENV2 and ENV4 of the UDP. Furthermore, the proposal does not constitute quality infill within the defined settlement limit for Hatfield Woodhouse contrary to Policy CS2 of the Core Strategy.

APPENDIX 1 – Proposed Site Plan



No.	Date	Revision
1	06/05/19	Utility Hall access road widened to 5m and 600mm wide footpath added all of them together
Scale: 1:200 Date: 8.4.2015		
Client: DANTON HOMES (DEVELOPMENTS) LTD		
Title: PROPOSED RESIDENTIAL DEVELOPMENT ON SITE TO THE REAR OF FIELD COTTAGE MAIN STREET, HATFIELD WOODHOUSE SITE LAYOUT		
Gable Design Ltd Architectural Technologists/ Building Design Consultants 5 Railway Court, Ten Pound Walk Doncaster DN4 9TB Tel & Fax: (01522) 363900		
Dwg. no. 975/1 A		

APPENDIX 2 – Decision Notice for Planning Reference 17/01955/FUL



Doncaster
Council

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

PLANNING PERMISSION REFUSED

Application Ref: 17/01955/FUL

Proposal: Erection of 5 dwellings with garages and associated works

Location: Land To The Rear Of Field Cottage Main Street Hatfield Woodhouse Doncaster

Dated: 11th March 2019

The Doncaster Metropolitan Borough Council acting as the Local Planning Authority, has considered your application described above and has decided to **REFUSE PERMISSION** for the following reasons.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

In dealing with the application referred to above, despite the Local Planning Authority wanting to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application, in this instance this has not been possible due to the reasons mentioned below.

01. The development would cause harm to the character and appearance of the countryside and would conflict with the approach to the location and supply of housing in Policies CS2 and CS3 of the Core Strategy and Saved Policies ENV2 and ENV4 of the UDP. Furthermore, the proposal does not constitute quality infill within the defined settlement limit for Hatfield Woodhouse contrary to Policy CS2 of the Core Strategy.

Scott Cardwell
Assistant Director of Development 17/01955/FUL

PLEASE VISIT THE FOLLOWING WEBPAGE "POST DECISION GUIDANCE NOTE 3" AT www.doncaster.gov.uk TO VIEW GUIDANCE NOTES TO SUPPORT THE DECISION NOTICE INCLUDING HOW TO APPEAL THE DECISION.

Doncaster Metropolitan Borough Council, Civic Office, Waterdale, Doncaster, DN1 3BU



Appeal Decision

Site visit made on 5 September 2016

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Appeal Ref: APP/F4410/W/16/3151727

Land to the rear of Field Cottage, Main Street, Hatfield Woodhouse, Doncaster

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pete Thompson on behalf of Dantom Homes (Development) Ltd against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 15/01251/FUL, dated 18 May 2015, was refused by notice dated 18 December 2015.
 - The development proposed is "erection of 5 dwellings with garages".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address and description of development provided in the application form have been updated by subsequent documents. The amended site address is accurate and I adopt it accordingly. In the interest of certainty with respect to the proposal for which planning permission is sought, the original description of development has been amended to include reference to garages.
3. A number of appeal decisions and case law have been drawn to my attention, including appeals for dwellings in the Borough at Firth Hills Farm in Hatfield¹, 3 The Paddock in Thorne², Thorpe Lane in Thorpe in Balne³ and elsewhere at Land north of Upper Chapel in Launceston⁴. I have had regard to the decisions and there are similarities with respect to development being proposed beyond defined settlement boundaries. Nevertheless, the circumstances in each case differ from the development proposal before me in terms of the characteristics of the proposal, the site and its surroundings. I have therefore determined the current appeal on its own merits based on the evidence before me.

Main Issue

4. The main issue of this appeal is whether the proposal is consistent with the objectives of local and national planning policies relating to the location and supply of housing and which seek to protect the countryside.

¹ APP/F4410/A/12/2184110

² APP/F4410/A/13/2191402

³ APP/F4410/A/14/2225074

⁴ APP/D0840/A/13/2209757

Reasons

5. The appeal site consists of land that is located to the rear of an existing ribbon of dwellings on the northern side of Main Street. The site has a gentle downward slope towards a village hall, play area and playing fields to the north and comprises a mix of dense vegetation with intermittent trees and hedgerows to the northern, western and eastern boundaries. An existing access road to the village hall and public footpath adjoins the eastern boundary of the site, leading to a larger expanse of predominantly open fields to the north. Existing dwellings facing Somerton Drive are located beyond the access road to the east.
6. The site is located adjacent to the existing built up area of Hatfield Woodhouse, a settlement comprising of a mix of ribbon development and groups of dwellings arranged around Main Street, Bawtry Road and Remple Lane. Hatfield Woodhouse has a limited range of local services and facilities including a village hall, social club, a small general store, a small parade of shops, a place of worship, playing fields and a primary school. The larger settlement of Hatfield has a greater range of services and facilities that are located approximately 2 km to the north west and on the opposite side of the M18 motorway. Bus stops are located on Main Street in close proximity to the site with regular bus services to and from Hatfield, together with the larger town centres of Doncaster and Thorne from the early mornings until evenings on weekdays. There are less frequent services on Saturdays and Sundays.

Location and supply of housing and protection of the countryside

7. The site adjoins, but lies outside of the settlement boundary as defined by the Proposals Map of the Doncaster Unitary Development Plan (UDP), adopted July 1998 and is designated as a Countryside Policy Area (CPA). Saved Policy ENV2 of the UDP sets out the purposes of the CPA, including assisting in safeguarding the countryside from encroachment, providing an attractive setting for towns and villages and assisting regeneration by directing development towards urban areas and strategic allocations. Saved Policy ENV4 of the UDP indicates that development in a CPA will not normally be permitted for purposes other than those appropriate to rural areas and that infill development is restricted to within settlements subject to limitations.
8. The site is also within a Countryside Protection Policy Area (CPAA) as set out in the Doncaster Council Core Strategy 2011-2028 (CS), adopted May 2012. Policy CS3 of the CS indicates that proposals in the CPAA will be supported where they would be appropriate to a countryside location and would protect and enhance the countryside for the sake of its intrinsic character and beauty. Policy CS3 also states that minor amendments to settlement boundaries will be supported where existing boundaries are indefensible. However, the supporting text to Policy CS3 is clear that it is important to ensure that the countryside is not eroded by often minor but cumulatively significant adjustments to the outer boundaries of built up areas.
9. With regard to the above, Policy CS2 of the CS sets out a settlement hierarchy for the location of new housing. Hatfield Woodhouse is identified as a larger defined village where quality infill will be permitted and existing village boundaries will be amended only if necessary to establish new defensible boundaries.

10. The adoption of the UDP predates the publication of the National Planning Policy Framework (the Framework). However, paragraph 211 of the Framework states that policies in the Local Plan should not be considered out of date simply because they were adopted prior to the publication of the Framework, and paragraph 215 advises that due weight should be given to such policies according to their degree of consistency with the Framework. In this respect, the UDP reflects historic assessments of housing need and sought to guide and co-ordinate development up to 2001. Nevertheless, Policies CS2 and CS3 of the CS in seeking to meet housing requirements up to 2028 utilise the existing settlement boundaries defined by the UDP and reflect approaches to protection of the countryside in Saved Policies ENV2 and ENV4 of the UDP. I therefore have no reason to consider that the existing settlement boundaries are no longer relevant to policies for the supply of housing or that Saved Policies ENV2 and ENV4 of the UDP are inconsistent with the Framework.
11. The Framework aims to boost significantly the supply of housing⁵. The Framework makes clear that relevant policies for the supply of housing should not be considered up-to-date if local planning authorities cannot demonstrate a five-year supply of deliverable housing sites⁶. The Council have indicated that there is a deliverable five year housing supply in the Borough. The appellant has not disputed this view and there is no evidence before me which would lead me to a different conclusion. It is therefore reasonable to consider that the relevant policies for the supply of housing are up-to-date. Furthermore, at the current time there is no immediate need to release additional sites to ensure an adequate supply of deliverable housing sites, including those outside of settlement boundaries such as the appeal site.
12. The site and adjoining land to the west are located to the north of the settlement boundary. As such, they define a change in character from the ribbon development of the built up area to the south towards open countryside within which the village hall and its associated facilities are located. As a consequence, the site together with the village hall and its associated facilities to the north are characterised as lying within the countryside rather than forming part of the village envelope. There is a different pattern of development to the east with a settlement boundary located further to the north that broadly aligns with the northern boundary of the site. However, the settlement edge opposite to the site on its eastern side is enclosed by the existing access road. This provides a defensible boundary and distinguishes it from the appeal site and the immediate surroundings to the west.
13. The development of the site would encroach upon the countryside, including enclosing a gap that exists between the village hall and the settlement boundary located at the rear of Field Cottage to the south. The design and layout of the dwellings, garages and enclosures would respect the diverse style of buildings evident in the local area, together with the pattern of residential development immediately to the east and more distant to the west. However, the construction of dwellings on the site would result in built development where there is presently none. The footprint of the buildings and the resultant bulk, scale and massing, together with hardstanding and domestic paraphernalia would inevitably lead to a loss of openness, as the site currently has no buildings or other development on it. The loss of openness would be

⁵ Paragraph 47

⁶ Paragraph 49

observed from existing views available through gaps in hedgerows along the access road and public footpath where they adjoin the eastern boundary of the site. The potential for additional boundary screening or landscaping would not mitigate the resultant change of the site to an urban character and appearance.

14. The impact on the open countryside arising from the loss of openness and loss of rural character would be reduced by the visual containment provided by surrounding built form and established landscaping. Nevertheless, users of the public footpath are sensitive receptors to change and the development would increase the sense of enclosure of built form when walking to and from the larger expanses of open countryside to the north. Furthermore, when compared to the access road that defines the current settlement edge to the east, the development would result in a less defensible settlement boundary to land on its western side, notwithstanding the established hedgerows and trees to this aspect.
15. The absence of existing built development immediately to the western side of the site would reduce the perception of the proposal comprising infill development. In any case, infill development is not encouraged by Policies CS2 and CS3 of the CS outside of settlement boundaries within the CPAA. Consequently, the development would not preserve the openness of the CPAA, the purpose of including the site within it and would not result in a more defensible settlement boundary. I therefore consider that the proposal would be an unacceptable development in the countryside, as it would not comprise one of the types of development that Policy CS3 of the CS permits in the countryside and would harm its character.
16. In reaching the above findings, I have taken into account that the site has been promoted for development through the Doncaster Local Plan process and that the supporting text of Policy CS3 indicates that urban extensions on land previously designated CPA will be required to meet the Borough's housing and employment requirement. However, such changes to address longer term development needs are necessarily undertaken through a plan-led approach.
17. I conclude that the development would be contrary to the approach to the location and supply of housing and which seek to protect the countryside set out in Policies CS2 and CS3 of the CS and Saved Policies ENV2 and ENV4 of the UDP. When taken together these policies seek to direct development towards a settlement hierarchy and restrict development in the countryside to that which requires a countryside location and cannot be accommodated within identified settlements. The policies are consistent with the Framework.

Other Matters

18. The supporting text of Policy CS2 indicates that larger defined villages, which include Hatfield Woodhouse, are relatively unsustainable locations for future housing growth. However, in view of the regular bus services nearby providing links to larger settlements and towns, the site is relatively accessible for a rural location. The proposal would deliver social and economic benefits by providing 5 new homes. In this respect, the development would make a modest contribution to meeting housing requirements and choice in the Borough whilst supporting local services and businesses. There would also be limited benefits in terms of increased natural surveillance of the village hall and its associated facilities, together with improvements to vehicular and pedestrian access. In

addition, there would also be temporary economic benefits arising from the construction activity required to deliver the development.

19. Although the site is not currently needed in order to ensure an adequate supply of deliverable housing sites, there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. In this context, I attach moderate weight to the social and economic benefits identified based on the scale of development proposed.
20. The relatively low level of additional traffic could be accommodated on the existing access road, which widens at the junction with Main Street and the surrounding highway network, without a severe impact upon highway safety and pedestrian safety of the public footpath. This would be subject to certain measures, including the formation of the private drive and turning area within the site, which could be secured by planning condition.
21. I am satisfied that the impact of the development on the living conditions of occupiers of neighbouring properties facing Main Street and Somerton Drive would not be significant. The separation distances between the dwellings, garages and neighbouring properties would prevent any impact on outlook and the oblique angle of interface between windows in main elevations would ensure no loss of privacy.
22. The development would result in the loss of grade 3 agricultural land. However, the land is not actively farmed and there is no evidence before me with respect to the supply of agricultural land in the local area. Based on the evidence before me, I consider that the loss of approximately 0.4 ha would not comprise significant development of agricultural land as described in the Framework and therefore only a minor adverse effect would occur.
23. An ecological appraisal and tree survey have been submitted which indicates that there are no trees of significance, but that the hedgerows, trees and scrub within the site provide a wildlife corridor and potential habitats for nesting birds, bats and badgers. Based on my observations of the site and its surroundings, I have no reason to take a different view to this evidence. Consequently, the recommendations in the ecological appraisal could be secured by condition requiring a scheme to be approved and implemented in order to protect and manage the ecology of the site. Such measures include retention of the existing hedgerows, scrub and trees that form site boundaries to safeguard the ecology of the site and avoid significant harm arising.
24. I am satisfied that matters relating to foul and surface water drainage could be appropriately addressed by condition if the appeal were allowed.
25. The appellant has referred to examples of development granted planning permission by the Council within the Borough, including within the settlement boundary of Hatfield Woodhouse and outside of the settlement boundary of Hatfield. However, the examples do not replicate the circumstances of the proposal before me or offer a precedent for the harm identified. I therefore determine this appeal on its own merits.

Planning Balance

26. The proposal would conflict with the approach to the location and supply of housing and protection of the countryside in Policies CS2 and CS3 of the CS and Saved Policies ENV2 and ENV4 of the UDP and would not therefore be in

accordance with the development plan. In such circumstances, planning law and the Framework⁷ indicate that planning permission should not be granted unless material considerations indicate otherwise. I have identified economic and social benefits arising from the provision of up to 5 new homes to which I attach moderate weight and a minor adverse effect relating to loss of agricultural land which I give little weight. The absence of harm relating to highway and pedestrian safety, the living conditions of neighbouring properties, ecology and drainage are neutral factors.

27. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan policies I have referred to, and the resultant harm would not be outweighed by other material considerations.

Conclusion

28. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

⁷ Paragraph 11

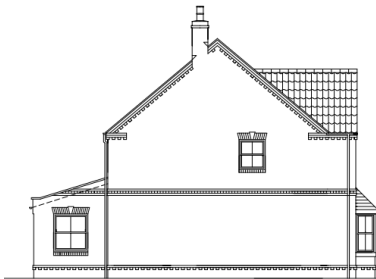
APPENDIX 4 – Plot 1 Elevations (each plot is individually designed)



Front Elevation



Side Elevation



Side Elevation



Rear Elevation

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 23rd July 2019

Application	4
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Application Number:	19/00991/FUL	Application Expiry Date:	17th June 2019
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Application Type:	Full Application
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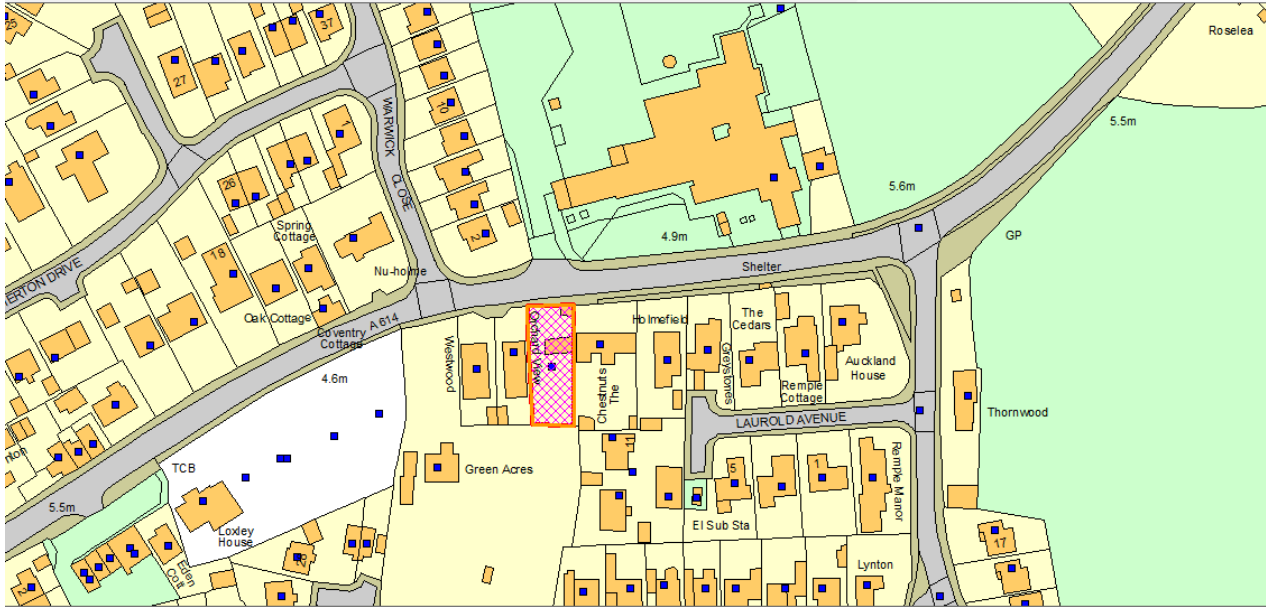
Proposal Description:	Erection of detached dwelling
At:	Land Adjacent To Orchard View Main Street Hatfield Woodhouse Doncaster

For:	Mr Howarth Swales
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Third Party Reps:	7	Parish:	Hatfield Town Council
		Ward:	Hatfield

Author of Report	Joe Perkins
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MAIN RECOMMENDATION:	Approve
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1.0 Reason for Report

- 1.1 The application is being presented to Members as a result of public interest. A total of 7 letters of objection have been received for this application

2.0 Proposal and background

- 2.1 Planning permission is sought for the erection of 1 dwelling.
- 2.2 Access will be taken from Main Street and will utilise an existing dropped kerb.
- 2.3 The site comprises a 34m x 14m plot of land between two residential dwellings on the southern side of Main Street in Hatfield Woodhouse.
- 2.4 The site is allocated as Residential Policy Area as defined by the Doncaster Unitary Development Plan (UDP) (Proposals Map).

3.0 Relevant Planning History

- 3.1 No relevant recent Planning History for this site.

4.0 Publicity and Representations

- 4.1 The application has been publicised by Neighbour notification letters in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
- 4.2 The site was originally submitted as 'Orchard View', this has been amended to 'Land adjacent to Orchard View'. It is not considered that the amendment would materially affect the consideration of the planning application as the correct site plan was available at the start of the publicity period and all appropriate neighbours were consulted, therefore it was not considered necessary to publicise the application for a second time.
- 4.3 Amended plans were received to revise the siting of the proposed dwelling and to include planting of replacement trees; this was re-advertised via neighbour notification letter for a 14-day period which expired 18.06.2019.
- 4.4 A total of 7 letters of representation have been received. In summary the representations made reference to the matters listed below.
- Privacy of neighbouring bungalows affected;
 - Bedroom and roof windows will overlook adjacent back gardens;
 - The proposed building could be moved nearer to the road to make it in-line with the adjoining properties and go some way to mitigate the overlooking rear bedroom windows;
 - Mature apple orchard will have to be felled;
 - Bats and Nightjars could be affected;
 - Site plan inaccurate as it shows Orchard View Bungalow to be smaller than reality;

- the applicant has falsely declared that there has been no waste disposal by burning within 250 metres of the site: the neighbouring property regularly burns rubbish on the adjoining boundary;
- the land could be contaminated due to a car being left on the site;
- the proposal should be amended to a single storey dwelling.
- Loss of light to kitchen/diner;
- Loss of trees which produce fruit and provide habitat for birds;
- The revised property siting still blocks light to the adjacent bungalow
- Removing the old trees and planting 3 new trees will overshadow neighbours
- The proposed house is too big for the plot
- Overdevelopment of land in the village
- Apple tree on site is over 100 years old and must not be disturbed
- Green Acres has a 10ft right of way to the main road, granted in 1964
- The main drain and sewage systems in Hatfield Woodhouse are at capacity and cannot cope with additional dwellings
- It looks like the loft will be converted to an additional bedroom in the future
- The trees on the site have not been stated in the application
- The area is already overdeveloped
- The development should not damage the boundary wall shared with The Chestnuts
- the property directly behind the Chestnuts was built with a bathroom window looking directly into the Chestnuts' rear garden and property. This was not on the original plans when planning consent was accepted. This should not be the case with this application

5.0 Relevant Consultations

Yorkshire Water; National Grid; Parish Council – No Response

Highways – No objections subject to visibility splay

Ecology; Rights of Way – no objections

Pollution control; Tree Officer; Drainage Officer – conditions recommended

6.0 Relevant Policy and Strategic Context

National Planning Policy Framework (NPPF 2019)

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Doncaster Core Strategy (May 2012)

The Core Strategy was adopted and this replaced many of the policies of the Unitary Development Plan; some UDP policies remain in force (for example those relating to the Countryside Policy Area) and will continue to sit alongside Core Strategy Policies until such time as the emerging Local Plan is adopted. Core Strategy policies relevant to this proposal are:

CS1: Quality of life
CS2: Growth and Regeneration Strategy
CS4: Flooding and Drainage
CS10: Housing Requirement, Land Supply and Phasing
CS11: Housing Renewal and Regeneration
CS12: Housing Mix and Affordable Housing
CS14: Design and Sustainable Construction
CS16: Valuing our Natural Environment

Saved Unitary Development Plan Policies (Adopted 1998)

ENV 41 - Sites of regional/local importance for nature conservation
ENV 53 - Design of new buildings
ENV 21 & 59 - Protection of trees
PH11 – Residential development in housing policy areas

The emerging Doncaster Local Plan

This will replace the UDP and Core Strategy once adopted. The Council is aiming to adopt the Local Plan by summer 2020. Consultation on the draft policies and proposed sites took place during September and October of last year and the Local Plan is due to be published in early summer 2019. Given the relatively early stage of preparation of the emerging Local Plan, the document carries very limited weight at this stage. The policies of this emerging plan that are relevant to this application are:

Policy 2: Spatial Strategy and Settlement Hierarchy
Policy 11: Residential Policy Areas
Policy 33: Woodlands, Trees and Hedgerows
Policy 45: Residential Design

Other material planning considerations

- Development Requirements and Guidance Supplementary Planning Document (SPD) (2015)
- Residential Backland and Infill Development SPD (2010)
- South Yorkshire Residential Design Guide SPD
- Doncaster Development and Flood Risk SPD
- Doncaster Development and Design Requirements SPD
- Doncaster Growing Together 2019/20
- National Planning Policy Guidance

7.0 Planning Issues and Discussion

7.1 The principal issues for consideration under this application are as follows:

- i) Impact on residential amenity of neighbouring dwellings
- ii) Design and scale
- iii) Access and highways safety
- iv) Impact on Trees and Ecology

Sustainability

- 7.2 The NPPF sets out at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development.

Principle of Development

- 7.3 The application site is in a residential policy area and the application is for a single dwelling. The site lies between two existing residential dwellings and opposite Hatfield Woodhouse Primary school. The proposal would therefore be considered to constitute infill development. Hatfield Woodhouse is a larger (defined) village therefore policy CS2 is relevant and states that 'quality infill will be permitted'.

Design, Scale and Character

- 7.4 The local character is defined by a variety of architectural styles. The property directly to the east is a two storey dwelling finished in cream render and the property directly to the west of the site is a brick built bungalow. The proposed dwelling would be two storeys with a room in the roof space and the western part of the proposal would have a reduced height thus would reflect the different heights of the adjacent dwellings.. The proposal would replace an existing dilapidated outbuilding and the relevant required separation distances would be met. In terms of density; the proposal would include sufficient garden space to the front and rear, and would be 1m away from the eastern boundary and 2.6m from the western boundary and 3.6m from the bungalow to the west. The shortest distance between the rear elevation and the rear boundary of the garden is 14.9m. The spacing of the proposal in relation to existing properties would not significantly deviate from the existing circumstances hence the development would not be at a density or of a form which would be detrimental to the character of the surrounding area and would not result in an over-intensive development of the site. The proposal is therefore considered to accord with saved UDP Policy PH11.
- 7.5 Amended plans have been received to site the proposal closer to Main Street in order to conform to the building line of the adjacent dwellings; this also serves the purpose of increasing the garden space for the host property. The proposed design would generally conform to the local vernacular hence it is not considered necessary to the reduce the scale of the development or to a single storey dwelling.

Amenity

- 7.6 The orientation of the proposed windows would not result in significant harm to the privacy of any neighbouring properties. There are no windows within the side elevation of the two storey dwelling the east of the site. The windows within the side elevation of the bungalow to the west of the site serve a kitchen area which, in terms of the Supplementary Planning Documents, is not considered to be a habitable room. As the room in the roof space is not a habitable room, a condition is recommended to require the proposed window in the side elevation to be obscure glazed in order to alleviate the potential for any overlooking of the rear garden at the Chestnuts, it is not considered that this would detriment living conditions as the loft storage is not proposed to be a habitable room.

Velux windows are angled facing upward and the orientation of these windows would not be a concern with regard to overlooking. Halls and staircases are non-habitable areas therefore windows serving these rooms would not warrant concern with regard to overlooking, additionally the outlook from these windows would mainly be the blank gable end wall of the Chestnuts. It is not considered that adjacent back gardens would be unduly overlooked by the windows within the proposed rear elevation.

- 7.7 By virtue of the siting of the proposal in relation to the neighbouring properties, it is not considered that the outlook from the Chestnuts would be harmed as a result of the proposal and the relocation of the proposal is considered to allow sufficient outlook from the kitchen so as not to create a significant detriment to residential amenity.
- 7.8 As the closest windows within the adjacent neighbouring bungalow serve a room which is not considered to be habitable, it is considered that the proposal would not significantly reduce the light entering any habitable rooms at this property. The proposed 3 trees would not cause any significant overshadowing and trees could be planted on the site without the need for planning permission.

Access and highways Safety and Transportation

- 7.9 The site is within walking distance (400m) of a bus stop therefore is accessible by public transport. Highways Development Control considers that the principle of development is acceptable however requested a site plan to include a visibility splay which demonstrated that the minimum required visibility at this location is 2.4m x 43m was achievable. This site plan complete with the required visibility splay was subsequently submitted, accordingly there are no significant issues in terms of access and highways safety.

Trees

- 7.10 The Council's tree officer was consulted and a mature apple tree has been identified within the site boundary; this would be within the rear garden of the proposed dwelling. The tree officer confirmed that whilst the tree probably dates back to the early 20th century, the graft suggests a more common cultivar rather than anything of any rarity. Whilst it would be regrettable to lose the tree, its removal would not be unduly detrimental to the appearance of the local area. It is recommended that conditions dealing with the replacement planting of three apple trees along with the management of the remaining two damsons would be appropriate.
- 7.11 An amended site plan was provided to include existing and proposed trees. Although the existing apple tree on the site is mature and well established in nature, no Tree Preservation Order is extant. Therefore, although retention of the tree is preferable; loss of the tree would not be a sufficiently significant detriment to warrant a reason for refusal. The applicant has submitted a site plan which includes the planting of 3 new trees to compensate for the loss of the previous trees; this supplements the support of the application as it would limit the loss of trees at the site.

A condition requiring maintenance measures for the two existing damson trees and the planting of three apple trees has been recommended.

Ecology

- 7.12 The Council's ecology officer was consulted as part of the application and, following a site visit, confirmed that no bat survey would be required as bats are not nesting in the outbuildings or trees. The potential loss of wildlife habitat is hence not considered sufficiently significant to substantiate a reason for refusal.

Water Management

- 7.13 The application site is in flood zone 1 therefore flood risk is minimal. The Council's drainage team have responded to a consultation by recommending the attachment of a pre-commencement condition. Details to demonstrate that the site can be appropriately drained would therefore be required at the discharge of condition stage. Yorkshire Water were consulted but did not provide a response. It is considered that, in terms of drainage, the application could be acceptable subject to discharge of the recommended pre-commencement condition and compliance with any scheme approved in relation to the discharge of the recommended condition.

Land contamination

- 7.14 A 'Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG) screening assessment form' has been completed following the recommendations of the Land Contamination Officer. The Land Contamination Officer confirmed that the screening assessment is satisfactory, that the development is unlikely to be affected by contamination and that the submitted details are therefore satisfactory subject to imposition of a condition relating to unexpected contamination found during works.

Other Issues

- 7.15 Below is a list of summarised points raised in representations and assessments of each point:

- 7.16 *"Site plan inaccurate as it shows Orchard View Bungalow to be smaller than reality"*

Sufficient information has been provided to assess the application in terms of the impact of the proposal on the neighbouring dwellings.

- 7.17 *"The applicant has falsely declared that there has been no waste disposal by burning within 250 metres of the site: the neighbouring property regularly burns rubbish on the adjoining boundary";*

This is not a material consideration in the determination of this planning application.

7.18 *“Green Acres has a 10ft right of way to the main road, granted in 1964; The development should not damage the boundary wall shared with The Chestnuts”*

These are matters of civil law, and not planning matters and therefore cannot be taken into account in dealing with a planning application. Public Rights of Way were consulted and have confirmed that no right of way exists through the site.

7.19 *“the property directly behind the Chestnuts was built with a bathroom window looking directly into the Chestnuts’ rear garden and property. This was not on the original plans when planning consent was accepted. This should not be the case with this application; It looks like the loft will be converted to an additional bedroom in the future”*

This is not a material consideration. Only comments which raise material considerations can be taken into account when an application is decided. Each planning application is considered on its merits and on the basis of the details that have been submitted.

8.0 Planning Balance & Conclusion

8.1 The application is compliant with the development plan and NPPF and there are no material considerations which indicate the application should be refused. It is recommended that the application be granted subject to suitably worded conditions.

9.0 RECOMMENDATION

9.1 Planning permission be granted subject to the following conditions:

01. STAT1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. U0071549 The development shall be carried out in accordance with the details shown on the amended plans referenced and dated as follows:

Location Plan, Proposed Plans, Elevations and Site Plan ‘023-01-REV.02’.

03. U0071550 The development shall not be occupied until the windows in the side elevation(s) of the loft room hereby approved have been obscure glazed. The obscure glazing shall thereafter be retained and maintained for the life of the development.

Reason: In order to protect the living conditions of the neighbouring residents, in accordance with the Local Development Framework.

04. U0071551 Prior to the commencement of development hereby approved, a scheme of orchard management shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) tree protection measures for the two retained damson trees that accord with clause 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations;
 - b) a scheme of management/pruning of the two retained damson trees;
 - c) the planting of three 12 litre container-grown bush-trained apple trees.

Unless as approved otherwise by the Local Planning Authority, the above shall be implemented during the first planting season following completion of development.

Reason: To ensure that the retained trees are protected from damage during construction in accordance with core strategy policy CS16: Valuing our natural environment and to ensure for replacement of the two removed apple trees.

05. DA01 The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.

REASON

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.

06. HIGH1 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

REASON

To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.

08. CON2 Should any unexpected significant contamination be encountered during development, all works on the construction of the development shall cease and the Local Planning Authority (LPA) shall be notified in writing immediately. A Phase 3 remediation report shall be submitted to the Local Planning Authority for approval following which the approved scheme of remediation works will be carried out in full on site. Upon completion of the remediation works, a Phase 4 verification report shall be submitted to the LPA for approval.

The works of construction of the development approved by this permission shall not re-commence until the Phase 3 remediation report and the Phase 4 verification report has been approved by the LPA.

Such reports and remediation works to be completed in accordance with the following:

If a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

09. MAT1A

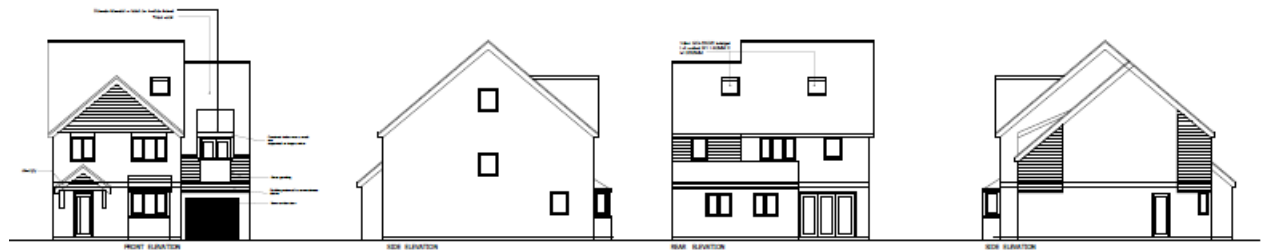
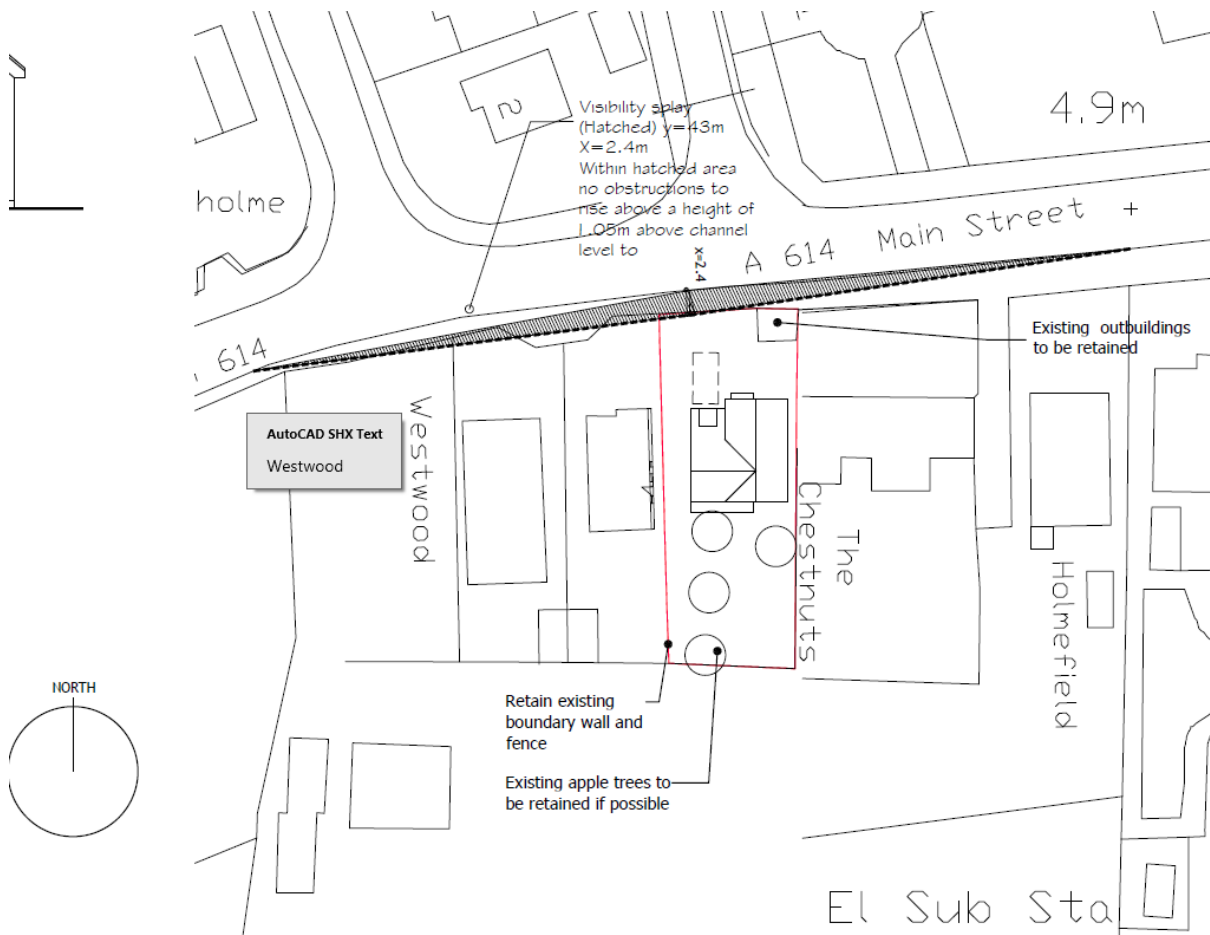
No development of a building/s shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

REASON

To ensure that the materials are appropriate to the area in accordance with policy CS14 of the Doncaster Core Strategy.

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1 – Elevations and site plan





Date: 23rd July 2019

To the Chair and Members of the Planning Committee

APPEAL DECISIONS

EXECUTIVE SUMMARY

1. The purpose of this report is to inform members of appeal decisions received from the planning inspectorate. Copies of the relevant decision letters are attached for information.

RECOMMENDATIONS

2. That the report together with the appeal decisions be noted.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. It demonstrates the ability applicants have to appeal against decisions of the Local Planning Authority and how those appeals have been assessed by the planning inspectorate.

BACKGROUND

4. Each decision has arisen from appeals made to the Planning Inspectorate.

OPTIONS CONSIDERED

5. It is helpful for the Planning Committee to be made aware of decisions made on appeals lodged against its decisions.

REASONS FOR RECOMMENDED OPTION

6. To make the public aware of these decisions.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

7.

	Outcomes	Implications
	Working with our partners we will provide strong leadership and governance.	Demonstrating good governance.

RISKS AND ASSUMPTIONS

8. N/A

LEGAL IMPLICATIONS [Officer Initials HL Date 10/07/19]

9. Sections 288 and 289 of the Town and Country Planning Act 1990, provides that a decision of the Secretary of State or his Inspector may be challenged in the High Court. Broadly, a decision can only be challenged on one or more of the following grounds:
- a) a material breach of the Inquiries Procedure Rules;
 - b) a breach of principles of natural justice;
 - c) the Secretary of State or his Inspector in coming to his decision took into account matters which were irrelevant to that decision;
 - d) the Secretary of State or his Inspector in coming to his decision failed to take into account matters relevant to that decision;
 - e) the Secretary of State or his Inspector acted perversely in that no reasonable person in their position properly directing themselves on the relevant material, could have reached the conclusion he did;
a material error of law.

FINANCIAL IMPLICATIONS [Officer Initials BC Date 10/07/19]

10. There are no direct financial implications as a result of the recommendation of this report, however Financial Management should be consulted should financial implications arise as a result of an individual appeal.

HUMAN RESOURCES IMPLICATIONS [Officer Initials CR Date 10/07/19]

11. There are no Human Resource implications arising from the report.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 10/07/19]

12. There are no technology implications arising from the report

HEALTH IMPLICATIONS [Officer Initials RS Date 10/07/19]

13. It is considered that there are no direct health implications although health should be considered on all decisions.

EQUALITY IMPLICATIONS [Officer Initials RL Date 10/07/19]

14. There are no Equalities implications arising from the report.

CONSULTATION

15. N/A

BACKGROUND PAPERS

16. N/A

CONCLUSIONS

17. Decisions on the under-mentioned applications have been notified as follows: -

Application No.	Application Description & Location	Appeal Decision	Ward	Decision Type	Overtured
17/00301/FULM	Construction of new Motorway Service Area ("MSA") to comprise: amenity building, lodge, drive thru coffee unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a fuel filling station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network. Provision of landscaping, infrastructure and ancillary works. at Land North East Of J37 Of The A1(M) Motorway , Marr Roundabout, Doncaster, DN5 7AS	Appeal Dismissed 08/07/2019	Sprotbrough	Committee	Yes
18/03016/FUL	Erection of 4 bedroom detached house with integral garage at Lynbar , Martin Lane, Bawtry, Doncaster	Appeal Dismissed 18/06/2019	Rossington And Bawtry	Delegated	No
18/00971/FUL	Erection of terraced house to side of existing house at 2 Lauder Road, Bentley, Doncaster, DN5 9RP	Appeal Dismissed 19/06/2019	Bentley	Delegated	No

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PETER DALE
Director of Regeneration and Environment

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Ministry of Housing,
Communities &
Local Government

Tony Collins
Collins & Coward

Our ref: APP/F4410/W/18/3197290
Your ref: 17/00301/FULM

8 July 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MOTO HOSPITALITY LIMITED
LAND NORTH EAST OF JUNCTION 37 OF THE A1(M) MOTORWAY, MARR
ROUNDBOUT, DONCASTER, DN5 7AS
APPLICATION REF: 17/00301/FULM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of B M Campbell BA(Hons) MRTPI who held a public local inquiry on 11–14 and 18 December 2018 into your client's appeal against the decision of Doncaster Metropolitan Borough Council to refuse your client's application for planning permission for the construction of a new Motorway Service Area (MSA) to comprise Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network, provision of landscaping, signage, infrastructure and ancillary works, in accordance with application ref: 17/00301/FULM dated 5 February 2017.
2. On 5 April 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that that the appeal be dismissed and planning permission be refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with the recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having taken account of the Inspector's comments at IR3, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Procedural matters

6. The Secretary of State notes that parties have agreed which drawings should be formally determined (IR4) and has proceeded on that basis.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Doncaster Core Strategy (2012) and saved policies from the Doncaster Unitary Development Plan 1998. The Secretary of State considers that relevant development plan policies include those set out at IR18-26.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Department for Transport Circular 02/2013. The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

Emerging plan

10. The emerging plan comprises the Draft Local Plan which has been published for consultation, concluding in October 2018. The Secretary of State considers that the emerging policies of most relevance to this case include Policy 13 Strategic Transport Network which refers to the provision of secure lorry parking facilities and road side service areas along the strategic road network to meet future demand where appropriate.
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the draft Local Plan is still at an early stage and has not yet been submitted for examination, objections are not yet fully resolved and the policies may be subject to change, the Secretary of State considers that the draft plan carries limited weight.

Main issues

Green Belt

12. The Secretary of State agrees with the Inspector's approach to the application of policy set out in IR179-181. He has considered whether the proposal amounts to inappropriate development in the Green Belt. For the reasons given at IR182, he agrees with the Inspector that it does not fall within any of the exceptions in paragraph 145 of the Framework. He has considered whether the proposal falls within the exception set out at paragraph 146(c) of the Framework. For the reasons set out at IR187-190, he agrees with the Inspector's conclusion that MSAs are aimed at providing services for drivers on the strategic road network and are not aimed at catering for the needs of drivers on the local highway network (IR188). He further agrees that while there is an identified need for additional HGV parking in the area, this need does not call for an operation of the size proposed to be built (IR189). Overall he agrees with the Inspector's conclusion at IR190 that the proposal does not comprise local transport infrastructure, and therefore considers that the proposal does not fall within the exception set out at paragraph 146(c) of the Framework. The proposal therefore represents inappropriate development in the Green Belt and should not be approved except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt.
13. The Secretary of State has gone on to consider whether the proposal preserves the openness of the Green Belt and whether it conflicts with the purposes of including land in the Green Belt. For the reasons given in IR193-200, the Secretary of State agrees with the Inspector at IR200 that the proposal would not preserve the openness of the Green Belt. For the reasons given at IR201-205, he also agrees with the Inspector at IR203 that the development would result in a substantial spread of the built environment beyond the well-defined line of the motorway and over an area almost devoid of development, and that this significant material encroachment into the countryside would be in conflict with the purposes of keeping land within the Green Belt, specifically, safeguarding the countryside from encroachment.
14. Overall the Secretary of State agrees with the Inspector in IR230 that as well as the harm from inappropriateness, the development would result in significant harm to the Green Belt from the effect on openness and conflict with the purposes of including land within the Green Belt. He further agrees that the harm to the Green Belt attracts substantial weight against the proposal (IR230), and that the development is in conflict with policy CS3 of the Core Strategy (IR208).

Landscape, loss of countryside and visual amenity

15. For the reasons given at IR209-210, the Secretary of State agrees with the Inspector's conclusion at IR231 that the harm is not insignificant given that minor adverse impacts in landscape and visual amenity terms would remain at year 15 and that no matter how well it is designed, landscaped and screened, the provision of an MSA on the appeal site would result in the permanent loss of a large expanse of open land in the countryside given over to an urbanising form of development. The Secretary of State agrees that significant weight should be attributed to these matters, and that there is conflict with the requirement of policy CS3 to protect and enhance the countryside (IR210).

Loss of agricultural land

16. The Secretary of State has taken account of the Inspector's analysis (IR211-214 and IR232) regarding the agricultural land that would be lost to the development, and notes that some 36% of the appeal site comprises best and most versatile agricultural land. He notes that concerns have been raised regarding the accuracy of the Agricultural Land Classification assessment but agrees with the Inspector at IR213 that no technical evidence has been presented to challenge the most recent report. For the reasons given in these paragraphs, the Secretary of State agrees with the Inspector that the loss of agricultural land, including best and most versatile land, carries moderate weight against the proposal (IR232) and is in conflict with policy CS18 (IR214).

The need for an MSA

17. The Secretary of State has considered the Inspector's analysis at IR220-228 and IR233 of the need for an MSA. While the distance between existing MSAs exceeds the recommended minimum as set out in C2/2013, he agrees with the Inspector's view that the distance between MSAs is recommended rather than mandatory, and that a distance of an additional 1 to 3 miles would be unlikely to add significantly to the drive time between MSAs (IR222). The Secretary of State also notes that each of the identified excessive distances include stretches of trunk road that include signed services, and agrees with the Inspector that while the signed services do not provide all the services required for an MSA, they do make a positive contribution to the safety and well-being of the travelling public (IR223). Overall the Secretary of State agrees with the Inspector's conclusion at IR228 that there is no pressing need to provide an additional MSA on the appeal site. He also agrees with the Inspector that while there is a specific need for additional HGV parking in the area, providing for that specific need does not, of itself, justify the provision of a new, full scale MSA. The Secretary of State agrees with the Inspector at IR233 that the need for an MSA at the appeal site carries limited weight in favour of the proposal.

Other matters

18. The Secretary of State agrees with the Inspector's analysis at IR229 and IR234 that the provision of jobs would be of benefit to the local economy, but that as the proposal is located in the Green Belt and not in an identified employment area, this benefit attracts only very limited weight in favour of the proposals.

19. For the reasons given at IR215-219, the Secretary of State agrees with the Inspector that there is no material harm to weigh in the balance in respect of highway conditions, air quality, heritage assets, noise and light pollution, litter or other matters raised by the JRP or other interested persons.

Planning conditions

20. The Secretary of State has given consideration to the Inspector's analysis at IR171-175, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

21. Having had regard to the Inspector's analysis at IR176-177, the planning obligation dated 12 December 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

22. For the reasons given above, the Secretary of State considers that the scheme is in conflict with Policies CS3 and CS18, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
23. The Secretary of State considers that the need for an MSA attracts limited weight in favour of the proposal, and that the economic benefits attract very limited weight in favour.
24. The Secretary of State considers that the harm to the Green Belt attracts substantial weight against the proposal, that the harm to the landscape, loss of countryside and visual amenity together attract significant weight against the proposal and that the loss of BMV agricultural land also attracts moderate weight against the proposal.
25. The Secretary of State considers that the proposal is inappropriate development in the Green Belt, which should not be approved except in very special circumstances which will not exist unless the potential harm to the Green Belt and any other harm from the proposal are clearly outweighed by other considerations. He considers that there is nothing that individually or cumulatively clearly outweighs the harm identified so as to amount to very special circumstances.
26. The Secretary of State concludes that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of a new Motorway Service Area (MSA) to comprise Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network, provision of landscaping, signage, infrastructure and ancillary works.

Right to challenge the decision

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
29. A copy of this letter has been sent to Doncaster Metropolitan Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Maria Stasiak

Authorised by the Secretary of State to sign in that behalf



Report to the Secretary of State for Housing, Communities and Local Government

by B M Campbell BA(Hons) MRTPI
an Inspector appointed by the Secretary of State

Date: 9 April 2019

TOWN AND COUNTRY PLANNING ACT 1990

DONCASTER METROPOLITAN BOROUGH COUNCIL

Appeal made by

MOTO HOSPITALITY LIMITED

Inquiry Held on 11 – 14 & 18 December 2018

Accompanied site visit undertaken on 19 December 2018

Land north east of Junction 37 of the A1(M) Motorway, Marr Roundabout, Doncaster DN5 7AS

File Ref: APP/F4410/W/18/3197290

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ABBREVIATIONS LIST

Term

Air Quality Management Area
All Purpose Trunk Road
Area of Special Landscape Value
Community Infrastructure Levy
Green Belt sub-area – Adwick Le Street 5
Department for Transport Circular 02/2013
Design Manual for Roads and Bridges
Doncaster Core Strategy 2012
Doncaster Unitary Development Plan 1998
Environmental Statement
Highways England
Joint Rural Parishes
Landscape Character Area
Landscape and Visual Impact Assessment
Local Road Network
Motorway Service Area
National Planning Policy Framework
Planning Practice Guidance
Regeneration Priority Area
Statement of Common Ground
Strategic Road Network
Tree Preservation Order

Acronym

AQMA
APTR
ASLV
CIL
ALS5
C2/2013
DMRB
CS
UDP
ES
HE
JRP
LCA
LVIA
LRN
MSA
NPPF
PPG
RPA
SoCG
SRN
TPO

CASE DETAILS

File Ref: APP/F4410/W/18/3197290

Land north east of Junction 37 of the A1(M) Motorway, Marr Roundabout, Doncaster DN5 7AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Moto Hospitality Limited against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 17/00301/FULM, dated 5 February 2017, was refused by notice dated 18 December 2017.
- The development proposed is construction of a new Motorway Service Area (MSA) to comprise: Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a Fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 37 of the A1(M) to form an access point and works to the local highway network. Provision of landscaping, signage, infrastructure and ancillary works.

Summary of Recommendation: The appeal be dismissed

PRELIMINARY MATTERS

1. By letter dated 5 April 2018 the Secretary of State issued a direction recovering the appeal for his own determination. The reason given is that the appeal involves proposals for significant development in the Green Belt.¹
2. When the appeal was submitted, matters relating to impact on the Strategic Road Network (SRN) remained outstanding such that Highways England (HE) was granted Rule 6 status. However, by letter dated 2 October 2018 HE withdrew from the inquiry having reached a satisfactory outcome with the Appellant.² Two Statements of Common Ground between HE and the Appellant can be found at document CD93.
3. The application, the subject of this appeal, was accompanied by an Environmental Statement (ES). The ES has been reviewed in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and has been found to be satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. None of the statutory or other consultees has suggested that the ES is in any way inadequate.
4. The proposal has not been altered since the application was determined by the Council. Nonetheless, during the course of the inquiry, the main parties sought to clarify which of the many drawings submitted should be formally determined. Those agreed upon are listed in condition 2 of the proposed conditions (**Appendix 3**) and a short comment on their inclusion or exclusion is provided in the list of core documents (**Appendix 2**). An additional drawing was added at document CD100 – illustrating tree pit details.
5. An executed planning obligation under section 106 of the Town and Country Planning Act 1990 was submitted during the course of the inquiry and can be

¹ Letter on appeal file APP/F4410/W/18/3197290

² Ibid

found at document CD97. A Community Infrastructure Levy (CIL) Compliance Statement is to be found at document INQ1.

6. I undertook an unaccompanied site visit of the general area (including signed services and Ferrybridge Services to the north) on 10 December during the afternoon peak period before opening the inquiry the following day. An accompanied visit took place on 19 December following the close of the inquiry. In addition to inspecting the site itself and the A635, we walked from a residential property along Green Lane through Long Plantation towards the northern edge of the site and went to viewpoints 1-4 as identified in the Appellant's landscape evidence (Document APP8, fig 14A & 14B). Following that accompanied visit I re-visited the signed services to the north and Ferrybridge Services on my own as agreed with the parties.

THE SITE AND SURROUNDINGS

7. The appeal site comprises some 15.1 hectares of agricultural land in the north east quadrant of the Marr roundabout at junction 37 of the A1(M). Formed from a portion of two adjoining fields, it is divided internally by the Mellinder Dike drain running north-south. Existing hedgerows mark the line of the drain which continues to the north beyond the site boundary. Overhead cables currently cross the site.
8. The site has a short boundary with the slip road leading off the southbound carriageway of the motorway and the boundary continues around the roundabout and in an easterly direction along the north side of the A635 leading to Doncaster. The boundary with the A635 is defined by a tree and hedgerow line to the rear of a large layby between the site and the road and includes a telecommunications mast. On the southern side of the A635 is a dense tree belt known as Ducker Holt.
9. The eastern boundary of the site is defined by a substantial linear belt of woodland known as Long Plantation (protected by a tree preservation order (TPO)) which stretches between the A635 and Green Lane to the north. The northern boundary cuts through the existing fields with more farmland extending north to Green Lane but including two further woodland areas, Stane Hill Plantation and Stane Hole Plantation (also protected by a TPO).
10. The eastern field slopes down from approximately 45m AOD to 35m AOD in an east-west direction towards the Dike, whilst the western field slopes more gently with higher ground on the western side varying from 37m AOD to 38m AOD. There are a few free-standing trees within the site and the location of a small former plaster pit.
11. There are some useful photographs of the appeal site in section 4 of document CD74.
12. The site lies within designated Green Belt, just off the north-west fringe of Doncaster. The nearest urban settlement is Scawsby, approximately 1km to the east. The village of Marr lies some 1.3km to the west of junction 37 and Brodsworth village, also on the other side of the motorway, is some 1.8km to the north west of the site.

13. The nearest residential properties to the appeal site are located along Green Lane and Town View Avenue to the north west and on the far side of Long Plantation. Scawsby Hall and Stone Hill School lie some 900m to the east and Marr Grange Cottage 730m to the south west.
14. To the north of the site at junction 38 the A1(M) changes status from motorway to a trunk road, the A1, and continues for that stretch extending from junction 38 to just south of the junction with the M62 where it reverts once again to A1(M) motorway. There are two signed services on each side of this stretch of trunk road – Carcroft and Barnsdale Bar North on the northbound side and Darrington and Barnsdale Bar South on the southbound side. Facilities available at these signed services are set out in a table attached to the Statement of Common Ground (SoCG) at document CD92. These and MSAs on the wider motorway network are depicted on a map at Document LPA2, fig.5.2. (see also document APP12 appendix 9)
15. Figure 1 in document APP8 and the aerial photograph at document INQ10 give an appreciation of the site in its context.

RELEVANT PLANNING POLICY

16. The Development Plan for the area includes the Doncaster Core Strategy (2012) (CS) and the saved policies of the Doncaster Unitary Development Plan 1998 (UDP). In addition, there is a draft Local Plan published for consultation with the consultation period concluded on 26 October 2018. The policies which the main parties agree as relevant to this proposal are listed in the SoCG. (Document CD92)
17. Whilst I have taken all relevant policies into account, I have set out below those most pertinent to the case.

Doncaster Core Strategy (Document CD84)

18. **Policy CS1** *Quality of Life* supports proposals which contribute to Core Strategy objectives including: providing employment opportunities; strengthening communities; are place specific in design, work with their surroundings and enhance the built and natural environment; are accessible by a range of transport modes; and which protect amenity and are well designed.
19. **Policy CS2** *Growth and Regeneration Strategy* seeks to distribute growth and regeneration so as to support prosperous and sustainable communities by improving the economic performance of towns, promoting regeneration and tackling deprivation
20. **Policy CS3** *Countryside* seeks to protect and enhance the countryside. National Green Belt policy is to be applied, including a presumption against inappropriate development other than in very special circumstances.
21. **Policy CS7** *Retail and Town Centres* requires town centre uses to be located according to the Retail Hierarchy as set out.
22. **Policy CS9** *Providing Travel Choice* supports proposals which make an overall contribution to the improvement of travel choice and the transport network. CS9 (D) 1. Supports facilities for lorry parking and roadside service areas where appropriate.

23. **Policy CS14** *Design and Sustainable Construction* seeks high quality design, contributing to local distinctiveness, reinforcing the character of local landscapes and building traditions, responding positively to existing site features and integrating well with its immediate surrounding area. CS14 (C) requires design and layout to adapt to a changing climate and to use energy, water and materials in the most efficient way possible.
24. **Policy CS18** *Air, Water and Agricultural Land* aims to conserve, protect and enhance air, water and land resources both in terms of quantity and quality.

Saved policies of the Doncaster Unitary Development Plan (Document CD85)

25. **Policy ENV1** sets out the general extent and purposes of including land in the Doncaster Green Belt reflecting four of the five purposes as set out in more recent national policy guidance (preserving the setting and special character of historic towns is not included).
26. **Policy ENV3** states that development within the Green Belt other than for purposes as specified within the policy will not be permitted except in very special circumstances – reflecting Government policy that was in force at the time, but which has since been superseded.³

Draft Doncaster Local Plan (Document CD86)

27. **Policy 13** *Strategic Transport Network* includes at (D) 4. the provision of secure lorry parking facilities and road side service areas along the SRN (including overnight stay accommodation and toilet facilities, where possible) to meet future demand, where appropriate.

National Policy

28. The **National Planning Policy Framework** (NPPF) contains up to date Green Belt policy to which Core Strategy policy CS3 refers. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved other than in very special circumstances which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Substantial weight is to be given to any harm to the Green Belt. (paras.143 & 144) The construction of new buildings is inappropriate other than for specified exceptions, none of which embrace buildings at an MSA. (para.145) Certain other forms of development, which include local transport infrastructure which can demonstrate a requirement for a Green Belt location, are not inappropriate provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. (para.146)
29. **Department for Transport Circular 02/2013** *The Strategic Road Network and the Delivery of Sustainable Development* (C2/2013) sets out Government policy relating to motorways and trunk roads. Annex B addresses roadside facilities for road users on motorways and all-purpose trunk roads (APTR). The Circular is consistent with the NPPF in identifying the primary function of roadside facilities as supporting the safety and welfare of the road user.

³ PPG 2 Green Belts

30. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours. The network of service areas on the SRN has been developed on the premise that opportunities to stop are provided at intervals of about half an hour. However, timing is not prescriptive as travel may take longer on congested parts of the network. Thus, the recommendation is that the maximum distance between motorway service areas should be no more than 28 miles. Further, given that speed limits vary on the SRN, the recommended maximum distance between signed services on trunk roads should be the equivalent of 30 minutes driving time. The distances are considered appropriate regardless of traffic flows or route choice. (paras.B4-B8)

THE PROPOSAL

31. The new MSA would provide an amenity building (3,959 sqm), a 103-bedroom lodge (2,865 sqm), a fuel filling station (261 sqm) together with a canopy over the fuel pumps, and a drive through coffee unit (205 sqm). The main car park would provide 492 spaces shared between the amenity building and lodge, including 6 electric charging points (with pre-installed underground ducting to facilitate future increased demand) and 22 spaces for the disabled with another 14 bays for motorcycles. Other separate parking areas would be provided to accommodate 96 HGV spaces, 1 abnormal load bay, 12 caravan spaces, 19 spaces for coaches, 36 spaces at the drive through (two of which would be accessible), 8 spaces at the fuel filling station and 26 spaces for staff parking (two of which would be accessible).
32. Vehicular access to and from the MSA would be gained from a new arm on the roundabout between the exit slip road from the southbound carriageway of the A1(M) and the A635 to Doncaster. Direct access to the MSA from a dedicated slip lane for vehicles travelling southbound on the A1(M) was deleted from the proposal on the advice of HE. Within the site, as is usual for MSAs, signage would separate the traffic, directing it to the appropriate parking area or required facility. New bus stops are proposed outside the site on the A635 and 20 cycle parking spaces in the service yard to encourage staff to travel other than by car.
33. The main buildings – that is the amenity building and lodge – would be located in the opposite corner of the site to the access, in front of a planted mound right in the far north east corner. In front of the amenity building would be outdoor seating areas and space for a number of external concessions with a picnic area to the south. Within the building the normal facilities found at MSAs such as toilets, showers, hot food outlets and shops would be provided.
34. The main car park would extend in a westerly direction from the front of the lodge and amenity building. To the south of this would be the drive through, coach and caravan parks and the one space for an abnormal load. The lorry park would be situated in the south east corner with the fuel filling station to the west of it towards the access into the site. Land within the site close to the access would be left open, landscaped and planted and would accommodate a flood water channel and attenuation basins.
35. The site would be landscaped throughout with heavily planted edges. Most notably a new 10–15m wide woodland buffer along the eastern boundary (parallel to Long Plantation) and a 15-20m wide woodland buffer along the

currently open north western boundary would meet at a tree planted mound in the north east corner behind the main buildings.

36. The main entrance façade to the amenity building would have a faceted arrangement with fin walls defining directional change between large glazed screens. Other elevations would, in the main, be treated with blockwork at low level and horizontal format cladding above. The main roof would be a mix of flat roofed areas and one large shallow roof plane. Roof lines would over-sail the principal glazed façade with V shaped columns supporting the roof in a colonnade-like arrangement. A lower canopy to the southern end would be similarly supported.
37. The lodge building would have a simple L shaped plan form. Although of two storeys, it would be similar in height to the amenity building. Roof forms would be a mix of flat and shallow sloping mono-pitches and the entrance would incorporate glazed features and a projecting canopy, once again supported on V shaped columns.
38. Further detailed descriptions of the proposal are included in documents CD65 section 5, CD74 section 7, CD76 section 4 and APP10 section 4. There is a wealth of drawings detailing the proposed layout of the site, the design and external appearance of the buildings and landscaping (Documents CD1 – CD63). These include computer generated views of the buildings and aerial views of the site. A useful booklet of the drawings at A3 size is to be found at Document INQ2.

MATTERS NOT IN DISPUTE BETWEEN THE COUNCIL AND MOTO HOSPITALITY LIMITED

Green Belt

39. Whilst there is disagreement on whether the proposal would amount to inappropriate development in the Green Belt, the effect on openness, and whether there would be conflict with two of the five purposes of including land in the Green Belt; it is agreed that there would be no conflict with the following three purposes:

Purpose (a) to check the unrestricted sprawl of large built up areas;

Purpose (b) to prevent neighbouring towns merging into one another; and

Purpose (d) to preserve the setting and special character of historic towns.

Gaps between MSAs

40. Relevant gaps between existing MSAs that exceed the recommended distances in C2/2013 are: (see Document LPA2, fig.5.2)

- between Ferrybridge (M62) and Woodall (M1) – 31 miles
- between Doncaster North and Ferrybridge (via the A1 and A1(M)) – 29 miles

Alternative sites (Documents CD66, APP2 section 3.5, APP10 paras.9.1.26-9.1.50, INQ16 paras.32-54)

41. Despite a suggestion to the contrary in the Council's Statement of Case and evidence, it is now agreed that if the need for an MSA is accepted (the need is disputed by the Council), then there are no suitable alternatives to be preferred to the appeal site. Sites around junction 35 are unsuitable being located too

close to Blyth MSA to the south. In addition, potential sites did not perform as well as the appeal site in relation to Green Belt considerations, loss of agricultural land, flooding and on highway grounds. There is insufficient distance between junctions 35 and 36 for an on-line site. No site is available at junction 36 because all four quadrants have been developed. Again, the distances between junctions 36 and 37 and between 37 and 38 are insufficient for an on-line site. Land at junction 38 is too close to Ferrybridge, is considered unsuitable for highway reasons, is in Green Belt and comprises grade 2 agricultural land.

42. Potential sites along the M18 are discounted as not bridging the gaps identified or performing less well than the appeal site.
43. At A1(M) junction 37, an MSA on the south-west and north-west quadrants would have a greater impact on the Green Belt and affect a designated Area of Special Landscape Value (ASLV) and the south-east quadrant comprises the Ducker Holt woodland. The north-east quadrant is agreed as being most suitable.

Highway matters

44. Two SoCG have been agreed with HE and can be found at document CD93. The first sets out highways and transport matters associated with the SRN that are agreed and concludes that the appeal should not be dismissed on highway grounds insofar as it relates to the SRN. The second relates to the level of parking provision and confirms no objection to the full future year parking requirement (year 2027) being provided at the outset.
45. A further highways SoCG has been agreed with the Council. The document sets out agreed highways and transport matters associated with the Local Road Network (LRN) and concludes that the appeal should not be dismissed on grounds of impact on the LRN.

Landscape

46. The findings of the Landscape and Visual Impact Assessment (LVIA) submitted with the planning application are accepted. It is common ground that once the development and landscaping has matured, there would be no impacts greater than minor adverse in landscape and visual amenity terms.⁴ (Document CD76 section 10 and Table 10.11 in particular)

Design

47. During the inquiry, the Council changed its stance in relation to design considerations, confirming that it took no issue with the design of the scheme and that there would be no conflict with policy CS14 which requires high quality design.

Other matters

48. There are no issues on **ecological grounds, drainage or flood risk**. **Archaeological concerns** can be addressed by the imposition of a suitable condition if planning permission was to be granted and there is no impact on any above ground **heritage assets**.

⁴ The LVIA Table 10.11 contains a typographical error as noted in document CD92 – there is no “moderate adverse” effect in year 15

THE CASE FOR DONCASTER METROPOLITAN BOROUGH COUNCIL

As noted above, the Council made a number of concessions during the inquiry, but its final case is as summarised in its opening and closing submissions (Documents INQ4 and INQ14)

The main points are:

Whether the proposal amounts to inappropriate development in the Green Belt

49. The Appellant's stance that the development is not inappropriate because it falls within NPPF paragraph 146(c) *local transport infrastructure which can demonstrate a requirement for a Green Belt location* is not made out.
50. Paragraph 145 of the current NPPF, formerly paragraph 89 of the NPPF 2012, says the construction of new buildings in the Green Belt are to be regarded as inappropriate other than for specified exceptions, none of which apply to the appeal proposal. As new buildings are included as part of the appeal proposal, paragraph 145 applies and the development is thus inappropriate. Paragraph 146 covers "other forms of development" and thus must be addressing forms other than the construction of new buildings. It does not therefore apply to the appeal proposal. The Appellant accepted in cross examination that if that is a correct interpretation of paragraphs 145 and 146 then the development must be inappropriate.
51. This interpretation is entirely consistent with the judgement in *R(oao Mrs Jean Timmins) v Gedling Borough Council* [2015] EWCA Civ10 wherein the Court of Appeal held that paragraph 89 (now 145) was "exclusively" the way in which the construction of new buildings could be not inappropriate. The Appellant's interpretation, namely that paragraph 146 can also provide for other types of new buildings in Green Belt is contrary to this judgement as it would mean that paragraph 145 (89 as it was then) is not a closed list of exclusive exceptions.
(Document INQ14 attached judgement)
52. The fact that paragraph 146(f) includes as not inappropriate "development brought forward under a Community Right to Build Order or Neighbourhood Development Order" does not lead to the conclusion that it embraces new buildings. There are a number of other types of development that can be brought forward pursuant to such Orders⁵ and it is these to which paragraph 146(f) refers – not new buildings which remain to be considered under paragraph 145. Accordingly, simply as a matter of legal interpretation, the development cannot be not inappropriate, because it involves the construction of new buildings in the Green Belt.
53. In addition, the proposed MSA does not constitute "local infrastructure" provided for by paragraph 146(c). An MSA is not "local" given that it serves a national need and will only be afforded limited use by local trips. The MSA would be located on the SRN operated by HE which, by definition, comprises nationally significant infrastructure. Indeed, the Appellant's own surveys included within the Transport Assessment demonstrated that only 3.8% of interviewees using

⁵ See Planning Practice Guidance Paragraph: 010 Reference ID: 41-010-20140306 through to Paragraph: 013 Reference ID: 41-013-20140306

MSAs were doing local trips. (Document CD67 para.6.54) The second limb of paragraph 146(c) is that the development can demonstrate a requirement for a Green Belt location. This ties in with the need for an MSA in this location which the Council does not accept and so a requirement for a Green Belt location is not demonstrated.

54. Even if the proposal did fall within paragraph 146(c), such development is only not inappropriate provided it preserves Green Belt openness and does not conflict with the purposes of including land in it. The stance of the Appellant's planning witness was not that there would be no harm or conflict but rather that the extent of harm/conflict would be acceptable. He argued that paragraph 146 must be interpreted as allowing for some acceptable degree of harm to openness/the purposes. Such an argument is contrary to case law. See in particular in *R.(oao Amanda Boot) v Elmbridge BC* [2017] EWHC 12 (Admin) where, having reviewed the authorities, it was held that where there was a finding of harm to the openness of the Green Belt, it followed that the openness would not be preserved. (Document INQ14 attached judgement paras.17-40)
55. There can be no degree of acceptable harm to openness and, by the same token, the same must also be true of conflict with the purposes of including land in the Green Belt – any degree of conflict must contradict paragraph 146. The Court of Appeal judgment in *Samuel Smith Old Brewery v North Yorkshire County Council* [2018] EWCA Civ 489 does not change this position. In that judgment the Court of Appeal established that whilst there could be an impact on openness, this impact could be either harmful or benign. (Document INQ14 attached judgement, para.38)
56. The starting point, in any event, must be the policies in the Development Plan and in the instance UDP policy ENV3 is the relevant policy for determining applications in the Green Belt. It includes no exception for local transport infrastructure. (Document CD 85 page 62).
57. The proposal constitutes inappropriate development in the Green Belt.

Effect on the openness of the Green Belt and the purposes of including land within it

Spatial dimension - openness

58. The proposed development would result in the loss of 15.1 hectares of currently open, undeveloped countryside in the Green Belt. This would result in significant harm. It is hard to see how any other conclusion could be reached. Indeed, the Appellant's planning witness conceded that he was unaware of any decision relating to the Green Belt where a development of such scale had not been found to harm the spatial role of openness. The reality remains that a significant three-dimensional space of entirely open undisturbed land would be permanently removed from the Green Belt. This can only result in significant harm. Landscape mitigation to screen the development has no bearing on the spatial dimension.

Visual dimension - openness

59. There is an obvious overlap with landscape and visual amenity issues under this section. The Council did not call its own evidence on these matters as it accepts the findings of the LVIA as confirmed in the SoCG. The LVIA, in accordance with industry standards, correctly identifies the potential environmental effects at three points: during construction, on completion and after 15 years so as to

enable effects to be understood and considered throughout the life cycle of the development. The LVIA concludes that there would be minor adverse impacts in landscape and visual amenity terms. This clearly contravenes the openness of the Green Belt and should be afforded substantial weight.

Purposes of including land in the Green Belt

Purpose (c) – safeguarding the countryside from encroachment

60. For the purposes of review in 2016, the Green Belt in the Borough was divided into 64 general areas that were assessed against how well the 5 purposes were being fulfilled. The Appeal site lies in the south western corner of Adwick Le Street 5 (ALS5). Although in relation to purpose (c), the area did not score highly, the appeal site is significantly more sensitive to encroachment than ALS5 as a whole which accommodates a degree of built development. In contrast, the appeal site, whilst adjacent to the A1(M) and the A635, comprises open fields with a cluster of deciduous plantations in the area immediately surrounding the site. The Long Plantation in particular separates the site visually and spatially from Scawsby. The site has a strong rural character and a moderate-high sensitivity to encroachment. As such it performs well in terms of its contribution to purpose (c) and significantly better than ALS5 as a whole. The scale of the appeal proposal would be a significant encroachment into the countryside in conflict with purpose (c) and would cause significant harm to the Green Belt.

(Documents CD87 page 67 & LPA2 paras.4.3.30-4.3.35 and 5.3.19-5.3.24)

Purpose (e) – assist urban regeneration, by encouraging recycling of derelict and other urban land

61. Area ALS5 scored highly in relation to this purpose being one of 20 of the general areas contiguous with the Borough's defined Regeneration Priority Areas (RPA). The protection of the entirely greenfield appeal site assists in directing development towards brownfield land within development limits, albeit that it is further from the RPA than ALS5 as a whole. Facilities provided at the MSA such as the hotel, or café/restaurants where business meetings could be held, could result in the site becoming a destination in its own right rather than simply providing roadside facilities for users of the A1(M). This could affect the viability of providing facilities within the RPA and discourage visitors from entering and using other facilities in Doncaster. (Document LPA2 paras.5.3.27-5.3.31)

Other harm

Landscape and visual amenity

62. Policy CS3 of the CS states that proposals which are outside development allocations will only be supported where they, '*protect and enhance the countryside*'. As with the discussion of Green Belt policy above, this policy does not envisage an acceptable degree of harm to the countryside. Rather, where a proposal fails to protect and enhance the countryside, it is contrary to the policy. Here, the proposal would result in minor adverse impacts on the countryside in landscape and visual amenity terms and result in the loss of 15.1 hectares of countryside. On any view, this does not protect or enhance the countryside and thus the proposal must be contrary to Policy CS3. Similarly, it must also be contrary to paragraph 170(b) of the NPPF, which seeks to recognise the intrinsic character and beauty of the countryside. (Document CD84 policy CS3)

Agricultural land

63. The Council does not dispute the Appellant's figures on the loss of agricultural land but the development would still lead to the loss of a substantial amount of high quality agricultural land. Policy CS18 of the CS accepts the loss of such land only where it conforms with the Growth and Regeneration Strategy. This strategy is reliant on the settlement hierarchy which, unsurprisingly, envisages that the Green Belt will not be developed except for appropriate development. Nowhere within the policy is it suggested that Green Belt development of this nature is consistent with the Strategy. Accordingly, the loss of agricultural land is contrary to policy CS18. (Document CD84 policy CS2)

Need for an MSA

64. Whether there is a need for an MSA is resolved through applying C2/2013 and is reliant on whether the maximum spacing distances identified in it are exceeded.
65. The Circular makes clear that "*In determining applications for new or improved sites, local planning authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons*" (Paragraph B8). This can only mean that if the maximum distance is not exceeded, the spacing between MSAs is not a relevant consideration and thus it cannot be said that there is a need for an MSA to 'plug a gap'. Moreover, C2/2013 "*recommends*" the maximum distance of 28 miles between MSAs which denotes a less onerous requirement than other aspects of the Circular which set out "*mandatory*" provisions and "*minimum*" requirements.
66. The Council does not suggest that there is anything inherently objectionable with going below the maximum distances identified in the Circular. However, where this would require the development to be situated in the Green Belt, the Council makes the obvious point that if the maximum distances are not exceeded, it cannot be said that there is a need for an MSA.

Are the maximum distances exceeded?

67. As a matter of fact there is a gap in excess of 28 miles between MSAs. However, to simply rely on this represents an incorrect interpretation of the Circular. The gap that the Appellant seeks to address is comprised of travelling along both trunk road and motorways. Applying the Circular correctly, this cannot give rise to a gap that justifies a need for an MSA. There is no existing gap of 28 miles between MSAs travelling only on motorway that the proposal would address (thus paragraph B6 is satisfied); and one cannot travel more than 30 minutes between signed services on the trunk road (thus paragraph B7 is satisfied).
68. MSAs, by definition, cannot be provided on trunk roads. It would be perverse to interpret paragraph B6 as requiring a maximum distance between MSAs of 28 miles notwithstanding the fact that the relevant 28 mile gap is comprised of roads where an MSA could not possibly be provided. It would be an error in interpretation of the Circular to conclude that there is a need for an MSA here, given that the maximum distances in paragraphs B4 – B7 of the Circular are not exceeded.
69. Even on the Appellant's best case, these maximum distances are, '*only slightly exceeded*' and within those gaps between MSAs there are signed services that

contribute to safety and welfare (Document CD67 para.2.10). On the Appellant's best case the need is not sufficient to justify this development in the Green Belt.

Existing trunk road service stations

70. There is no justification for disregarding contributions made by the signed services on the A1 on highway safety grounds. Insufficient assessment has been made to establish that any has a poor safety record, or that the merge and diverge tapers from Design Manual for Roads and Bridges (DMRB) TD41/95 should be applied. Furthermore, HE has taken no action in relation to these services nor is there any evidence to suggest that it considers them to be dangerous. (Documents INQ7 & INQ14 paras.5.4.2-5.4.5)
71. It would be wrong to discount the signed services on grounds of not meeting the minimum parking requirements set out in C2/2013. That would rely on an incorrect application of the Circular. Paragraph B26 is plain that "*Where a site is subject to a pre-existing sealed agreement which specifies the levels of parking provision, this shall continue to apply until such time as the scale and/or scope of on-site activities is extended*". Accordingly, since the existing services are all subject to sealed agreements (as they must be), the requirements they are expected to meet are those set out in those agreements and not what the Circular now requires. Moreover, paragraph B28 makes clear that levels of parking provision may be adjusted to reflect local conditions through a process of site-specific negotiation. No evidence has been submitted to suggest that the parking provision at any of the signed services is insufficient for the needs of motorists when considered individually or together.
72. The minimum requirements for signed services are substantially met through the existing A1 roadside facilities, save for in respect of free parking (which was met in part) and access to a cash operated telephone. But in any event, these minimum requirements apply to "*various types of roadside facility that may be eligible for signing from the strategic road network*" (paragraph B17) – all of the A1 roadside facilities are already signed.
73. The contribution made by existing services cannot be discounted simply by applying current standards retrospectively. Furthermore, less harm to the Green Belt would result from bringing these existing services up to standard than in constructing the new MSA. In addition, it is pure speculation to suggest that these services will be wiped out if the trunk road is upgraded to motorway and there is nothing to say when or if this upgrade will proceed.

Conclusion on need

74. There is no need for an MSA in this location but even if a need for roadside facilities was identified, this should involve the minimum interference with the Green Belt to meet that need. The proposed MSA goes substantially in excess of what would be required. The mere fact that there are other MSAs in the Green Belt is no justification for this proposal.

Is the harm clearly outweighed by other considerations?

75. If C2/2013 is correctly applied, then there is no need for an MSA and thus no other considerations to weigh in the balance. In the alternative, need only arises from the maximum distances in the Circular being slightly exceeded and given that these distances are "recommended" rather than mandatory that is

insufficient to override Green Belt policy. The harm to the Green Belt is to be afforded substantial weight and there are a number of additional harms as well as conflict with the Development Plan as a whole.

76. The benefits of the proposal do not clearly outweigh the harm and thus very special circumstances necessary to justify the development do not exist.

Accordance with the Development Plan?

77. There is nothing in CS policy CS9 on which the Appellant relies to support a proposal of this nature in the Green Belt.

78. For the reasons given the proposal does not conform with the Development Plan as a whole. That being the case, the presumption in favour of sustainable development does not apply. There is no reason to depart from the default position that proposals contrary to the development plan should be refused.

THE CASE FOR THE JOINT RURAL PARISHES (JRP)

At the inquiry, the JRP addressed a written statement (Document INQ6v2) which was submitted along with attached appendices A-Q. Its case is summarised in its closing submissions (Document INQ15)

The main points are:

Loss of Agricultural Land

79. The initial agricultural land assessment undertaken for the project by Savills in January 2016 characterised the appeal site as grade 2, best and most versatile and that is the best land available in the Borough. (Document CD73) Permanently removing prime agricultural land out of Green Belt is not sustainable.
80. The second report written in October 2018 by Tim O'Hare Associates, contradicts the findings of the earlier report but contains a number of inconsistencies and errors including within the Legal disclaimer. Whilst a further document responding to the JRP criticisms was submitted to the inquiry, the errors made call into question the validity of the entire report and whether any reliance should be placed on it. It is hard to understand how such fundamental errors could go unnoticed and be presented as written evidence. For these reasons the initial 2016 assessment report is to be preferred. (Documents APP9 appendix 16 & INQ11)

Traffic Congestion

81. The initial traffic counts submitted and used as evidence by the Appellant are 3 years out of date. They do not reflect the current traffic volumes, congestion or queuing experienced by drivers using the A635 or the A1(M) slip roads at the Marr roundabout or indeed the standing traffic this creates on the A1(M) itself at this junction. Further traffic counts to assess whether projected traffic volumes correlate with actual current traffic volumes have not been undertaken.
82. Air quality in Marr is a major concern (already designated an Air Quality Management Area (AQMA) with NO_x levels along the A635 twice the legal limit) owing to traffic volume and congestion and tailbacks along the A635 from the junction roundabout towards Marr. The traffic queues observed now of over 30

vehicles in peak times (4.30pm to 5.30pm) do not appear to correlate with the modelled current maximum queue length of two.

83. The explanation given is that the stated maximum queue lengths are not actually maxima as described, but “mean maxima”. The Appellant accepted that actual queues of over 30 vehicles, as currently observed, are entirely possible. This brings into question what a mean maxima of 6 as predicted in 2027 if the development went ahead would look like; and what the A1(M) south arm with its 15 “mean maxima” would look like in 2027, particularly since the roundabout is predicted to be operating at full capacity by then. (Document CD67 paras.6.62-6.69)
84. No account has been taken of the added contribution to congestion from Barnsley Council’s ongoing large scale employment and housing development along a continuous 5 mile stretch of the A635, west of Hickleton. This would take the Marr roundabout above capacity with severe implications for the A635 and for the SRN.
85. The proposed HS2 project which anticipates a substantial increase in vehicle movements each day during construction will further increase traffic congestion on the A1(M) and A635 and negatively impact air quality. (Document INQ6 appendix Q)
86. Current high levels of congestion are supported by photographic evidence and by well-documented statements from Doncaster and Barnsley Councils as well as from the Sheffield City Region and Transport for the North. Their consistent and aligned view is that the A635 is heavily congested with road safety concerns in Marr and Hickleton (Document INQ6 appendices A, B, I & J). This has led to an identified need for a bypass for Hickleton and Marr.
87. The Appellant’s Transport Assessment evidence is 3 years out of date and takes no account of Barnsley’s large scale continuing development along the A635. This brings into question the Appellant’s projections of congestion and tailbacks at Marr roundabout. It cannot be relied upon to determine future traffic impacts associated with an MSA at this location.

Air Quality

88. The pollution levels from traffic using the A635 have increased to such an extent that both Marr and Hickleton are now in a designated Air Quality Management Area (AQMA). Both Doncaster and Barnsley Councils acknowledge that the heavy increase in traffic levels as well as increased HGV numbers along the A635 are the cause of the increased NOx pollutants. (Document INQ6 appendices F, H, J, K, L)
89. The effect that air pollution and particulates have on health has been well documented. In this appeal, no account has been taken of increased traffic volumes and congestion and the impact that this would have on the health and well-being of local residents due to increased air pollution in a designated AQMA.

Potential Speed Limit Reductions along the A635 approaches to the Marr Roundabout

90. The crossing of the A635 by people using the proposed new bus stops would not be safe. It is an extremely busy road in both directions. The drawing at document CD43 suggests a speed limit reduction along the A635 approaches and circulating carriageway of the roundabout. This might improve road safety for pedestrians but would, as a consequence, reduce the efficiency of the A635. It

would be likely to increase queue lengths and make congestion matters worse at this junction.

The need for an MSA and Safety

91. It is predicted that personal accident injuries at the A1(M)/A635 junction roundabout would increase by 50% from 2 to 3 per year, following the proposed development. There is no evidence put forward to show that the small number of personal injury accidents at the four signed service areas would reduce (on average one accident at each, per year, over the last 5 years) by the provision of an MSA as an alternative stopping facility. The Appellant has shown in its projections that an MSA at this location would increase accident numbers overall. (Document APP2 paras 3.4.11-3.4.17 & 6.1.3-6.1.7)
92. In considering the need for the MSA the existing 10 mile stretch of trunk road and its four signed services (and a number of other easily accessible non-signed services) cannot be ignored when assessing the gap. In terms of supporting the safety and welfare of drivers, these APTR facilities play a major role, as they do on any other trunk road on the SRN, whether or not they connect two motorways. The four signed services have recently been re-furbished at some significant expense.
93. Further south on the A1 there are long stretches of non-motorway trunk road which have similar traffic flows to their connected sections of the A1(M) but, these rely solely on the APTR services (for example the stretch from Blyth MSA to Peterborough MSA).
94. The need for an MSA is very weak with the two identified gaps only slightly above the recommended maximum (one via a longer alternative route), and both served by the trunk road signed services.
95. If there is a case for more lorry parking in the area, C2/2013 makes clear that truck stops can be built up to two miles distant from the SRN. This could avoid the need to use Green Belt or prime agricultural land and potentially make use of brown field sites. The existing signed service at Barnsdale Bar South might be expanded and developed into a larger formal truck stop, making full use of the current unused derelict land and buildings. The Appellant does not appear to have explored this or other possibilities for truck stops.

Report to Planning Committee 12th December 2017 (Document CD83)

96. The written report to the Planning Committee recommending that permission be granted did not make clear that the identified gaps exceeding 28 miles between MSAs included a 10 mile stretch of non-motorway trunk road.

Green Belt

97. A new MSA supporting the SRN, regulated by HE, cannot be described as local transport infrastructure and it is, therefore, inappropriate development in the Green Belt. The expansion of the MSA at Cobham is not comparable as the need seems to have arisen from an increased need for HGV parking in the local area and the Inspector was not considering a brand new MSA. The case of the Rugby MSA was again quite a different proposal as it was a brownfield site and not in the Green Belt. (Documents APP12 appendix 3 & 5)

98. As inappropriate development in the Green Belt, the proposal is, by definition, harmful. In addition there are other harms, the key ones being: adverse impact on openness, visual impact, damage to the landscape, loss of prime agricultural land, environmental impacts on health and well-being of local residents, driver safety on the Marr roundabout and increased congestion at the roundabout, on the A1(M) slip roads, the SRN and the A635.
99. The Appellant has failed to demonstrate very special circumstances in terms of 'need' in the interest of driver safety and welfare.

Other matters

100. It is not understood why Historic England was not consulted given that the appeal site is visible from the grounds of the Grade 1 Brodsworth Hall. In addition, the setting of Marr, a conservation area, would be adversely affected. These findings were made in the Golders Landscape Character and Capacity Study when considering the potential for development. (Document CD89 pages28-30) Visitors to the Hall, in particular those in coaches would have a view of the site when arriving and leaving.
101. As a facility intended to be open 24 hours a day, there would be intrusion at unsocial hours from lighting, including on signage, and from constant activity.

OTHER ORAL AND WRITTEN REPRESENTATIONS

Oral representation

102. Mrs Mitcheson addressed the inquiry as a resident of Green Lane and owner of Long Plantation (protected by a blanket TPO). (Document INQ9) She is concerned about disturbance from noise, light pollution and litter. In addition, reliance should not be placed on Long Plantation to screen the development, nor should it be seen as an integral part of the scheme since it is not owned by the Appellant. The monetary, educational and ecological value of the woodland would be compromised should the development go ahead.
103. Long Plantation is a privately owned piece of land some 56-65m in width, rather than 70-90m as claimed, and since it is wholly deciduous the canopy is not closed for 6 months of the year.

Written responses to the notification of the appeal (red folder in appeal file)

104. Nine representations were received including from a Ward Councillor, the Clerk to Brodsworth Parish Council, from the Chair of the JRP and from the Chair of Scawsby Green Lane, Town View and Pickburn Neighbourhood Watch.
105. Two individuals have written **in support** of the development commenting that it would provide local employment and provide a needed facility to serve the motorway.
106. The remaining representations **oppose** the scheme primarily on grounds of:
- Green Belt harm
 - Lack of need
 - Air pollution
 - Loss of agricultural land
 - Traffic congestion

Written representations received in response to the planning application

107. Representations received in response to the planning application are summarised in the officer's report to the Planning Committee at sections 4, 5 and 6 of document CD83. They included 53 letters of objection and six letters of support and representations from Councillors, Parish Councils and the Campaign to Protect Rural England.

THE CASE FOR MOTO HOSPITALITY LIMITED

The case for the Appellant is summarised in its opening and closing submissions

(Documents INQ3 and INQ16)

The main points are:

108. The appeal proposal would meet a need for MSA provision in this area and is therefore entirely consistent with the principles of sustainable development. The proposal is appropriate development within the Green Belt, but even if that is not accepted very special circumstances have been demonstrated, and the benefits would clearly outweigh any harm to the Green Belt and any other harm.

The need for an MSA

The policy approach

109. Circular 02/2013 says MSAs perform an important road safety function by providing opportunities for the travelling public to stop and take a break in the course of their journey. Road safety is at the heart of the Government's advice on the spacing of MSAs and other roadside facilities. The safety benefits to motorists of being able to stop and break their journey is set out in numerous documents from the Government and bodies such as the Automobile Association (Document APP10 para.9.2.1-9.2.8).

110. The maximum distance between MSAs should be no more than 28 miles. The distance can be shorter, but to protect the safety and operation of the network, access and egress must comply with the requirements of the DMRB. The distances referred to in the guidance are regardless of route choice and the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons need not be considered. (Document CD98 para.B8)

111. The existence of a gap of more than 28 miles should be given very substantial weight. Whilst within that gap there is a section of trunk road, the A1, linking two sections of motorway, the facilities on that road do not fill the gap between MSAs. Many thousands of vehicles each day have to use this stretch of trunk road to pass from one part of the A1(M) to the other, as part of their motorway journey. The safety and rest needs of the drivers of those vehicles do not reduce or change when they are travelling along the relatively short length of trunk road. The policy refers to a gap between MSAs of no more than 28 miles and that cannot be satisfied by roadside facilities which fall short of the requirements for MSAs.

The need in this case

112. Between Woodall and Ferrybridge services, the gap is 31 miles and between Ferrybridge and Doncaster North (taking the longer route) the distance is 29 miles. The Council's argument that the latter only "marginally exceeds" the 28 mile gap ignores the fact that 28 miles is a maximum – not a minimum or average. If 28 miles is exceeded, then further MSA provision is required.
113. The distance between Ferrybridge and Blyth, the nearest services on the A1(M) to the south, is 24 miles which is still substantial having regard to the Circular's aim to secure the safety of motorway users. The safety and welfare benefits of MSA provision are present even where the gap between facilities is less than 28 miles, although there is a particular need once the gap is greater than 28 miles, as here.
114. It is also relevant to consider the distances from Wetherby, even though Ferrybridge lies further south. That is because for those travelling on the A1(M) a diversion is required in order to access Ferrybridge. The distances between Wetherby and Blyth, Woodall and Doncaster North (by whichever route) are substantially greater than 28 miles (43 and 50 miles respectively).
115. In addition to the need for an MSA, there is a specific need in this area for facilities for HGVs. The 2017 National Survey of Lorry Parking shows that the total number of HGVs parked in the Yorkshire and Humberside region exceeds the lorry park capacity, with utilisation over-capacity at Ferrybridge and Woodall services. This lack of capacity at services to the north and south of the site helps explain the prevalence of off-site lorry parking in this area and supports the need for the proposal. (Documents APP12 appendix 16 & APP10 para.9.2.12)
116. There is a clear need for an MSA in the area.

Do the facilities on the A1 meet the need?

117. The services on the A1 do not detract from the need that has been identified and cannot substitute for a new MSA. The facilities available at the services are agreed in the Statement of Common Ground (Document CD92). The A1 services do not provide the mandatory facilities that are required for an MSA which have been identified by the Government as what is required in order to cater for the safety and welfare of drivers.
118. The parking at these services does not even meet the C2/2013 requirements for trunk roads; informal parking areas cannot be relied on. None offers 24 hour hot food and drink for consumption on the premises. None has shower facilities for HGV drivers except Barnsdale Bar South, and those facilities are available only during the opening hours of the diner. None has a cash operated telephone. None of the services has access and egress compliant with DMRB requirements and accident records suggest correlation with deficient access and egress provision (Document APP2 section 3.4). Use of these facilities to meet the identified need should not be encouraged and they cannot be regarded as a substitute for proper MSA provision in accordance with the Circular.
119. It is right to assess the access and egress to the A1 facilities by reference to the tapers recommended for petrol filling stations in Table 2/2 of DMRB TD 41/95. No other tapers are recommended for petrol filling stations and each of the A1 facilities provides other services beyond petrol, so turning traffic

movements greater than for a filling station only would be expected. The motorway traffic using the A1 stretch is well over 30,000 vehicles per day. It cannot seriously be suggested that facilities whose access and egress are inappropriate for turning traffic of more than 450 vehicles per day are sufficiently safe to be an acceptable alternative for the appeal proposal. (Documents APP2 paras. 3.4.7 – 3.4.17 & INQ7 pages 2/6, 2/7, 2/14, 2/15).

120. The final reason why the A1 facilities cannot be relied on to meet the identified need is that they are all likely to cease to exist when the A1 is upgraded to motorway status as intended by the Government. An MSA could not be provided on the newly upgraded motorway because all of it would be too close to Ferrybridge. Operators require a 10 mile minimum distance between MSAs.

(Document APP10 paras. 9.1.23, 9.1.25, 9.1.28)

121. Any scope for improving the A1 facilities is limited since they are all in the Green Belt. All fall within grade 2 agricultural land on the Council's plan save Carcroft which is shown as being in a grade 3 area. However, the plan does not differentiate between grade 3a and grade 3b, so the area surrounding Carcroft could be best and most versatile land (Document LPA2 Fig.5.1).

122. Non-signed facilities off the A1 and M18 suggested by the JRP do not offer an attractive alternative. None provide the mandatory MSA facilities and it is undesirable to have motorists leaving the motorway and using the local road network to access facilities. Furthermore, the JRP identified junctions along the A1 as dangerous.

Are there alternative sites for an MSA?

123. It is agreed with the Council that if an MSA is required, there is no better site than the appeal site.

Is the development inappropriate in the Green Belt?

124. The development is not inappropriate as it comprises local transport infrastructure which can demonstrate a requirement for a Green Belt location; it preserves openness and does not conflict with the purposes of including land in the Green Belt. It is thus one of the exceptions provided for by paragraph 146 of the NPPF.

125. The Council's contention that paragraph 146 does not apply to the construction of new buildings in the Green Belt is wrong for the following reasons:

- The observation of Richards LJ in *Timmins* (para.31) that paragraph 89 of the 2012 NPPF (now paragraph 145) "*sets out the only exceptions*" to the general rule that the construction of new buildings is inappropriate development is obiter. The Court of Appeal in that case had to decide whether material change use of land to use as a cemetery fell within paragraph 89 or paragraph 90 (now paragraph 146). The Court did not have to decide whether paragraph 90 could apply to development falling within one of the exceptions listed in that paragraph where built development was involved. *Timmins* is not, therefore, binding upon the Secretary of State in determining this appeal.
- The proper approach to paragraphs 145 and 146 is that paragraph 145 exempts only the construction of new buildings in the Green Belt as listed in

that paragraph, and not material changes of use or other built development. Paragraph 146, conversely, exempts "Certain other forms of development" but plainly those other forms of development may include the construction of new buildings.

126. To interpret paragraph 146 as excluding "other forms of development" that include (as part of the development) the construction of one or more new buildings would be to denude paragraph 146 of much of its effect. Mineral extraction, for example, will often require the construction of new buildings;⁶ so will the provision of local transport infrastructure. Most obviously, the Government's Planning Practice Guidance (PPG) makes clear that Neighbourhood Development Orders and Community Right to Build Orders can be used to approve the building of (inter alia) homes, shops, businesses and affordable housing for rent or sale.⁷ Indeed, the relevant legislation expressly contemplates that housing will be developed using a Community Right to Build Order (and then retained as housing that is affordable in perpetuity). It would be contradictory to permit the forms of development listed in paragraph 146 as "not inappropriate" only then to require very special circumstances to be shown in respect of the construction of any new building included within the development proposal.

127. In summary, paragraph 146 can in principle apply where a development within one of the categories set out in the paragraph includes buildings.

Local transport infrastructure?

128. There is no definition of this phrase in the NPPF but the proposed MSA is local transport infrastructure. The 2018 Cobham appeal decision supports this. The inspector decided additional HGV parking in an existing MSA would be local transport infrastructure. The basis of this conclusion was that the HGV parking was needed "in the local area". She was not deterred from this conclusion by the fact that the journeys made by the HGVs using the facility would be long trips and not local ones. (Document APP12 appendix 3)

129. The same reasoning applies to the present case. This is transport infrastructure and there is a need for it in this local area, even though clearly many or most of those using it would be on journeys that might reasonably be considered greater than local in length. There will be other infrastructure projects, for example projects of national significance, which do not require to be located in a specific area. This project does have specific locational requirements; it is truly local transport infrastructure.

Green Belt location required?

130. It has been demonstrated that this is a proposal which requires a Green Belt location; there is nowhere else that is suitable. It is common ground that if there is a requirement for an MSA in the vicinity, it is likely that it would have to be located in the Green Belt because the majority of the strategic highway runs through the Green Belt.

⁶ that is particularly the case if regard is had to the very wide definition of "building" in s. 336 of the Town and Country Planning Act 1990

⁷ See Planning Practice Guidance Paragraph: 010 Reference ID: 41-012-20140306

Openness

131. Any correct analysis in relation to openness has to start from the premise that some development falling within the categories set out within paragraph 146 of the NPPF can be appropriate, otherwise the proviso about openness would make paragraph 146 pointless; see *Samuel Smith* paragraph 16.
132. The question of preservation of openness, therefore, has to be considered in the context of the fact that paragraph 146 plainly contemplates development which has a significant physical impact. For example, quarrying and mineral working could have such an impact. Then again, there is development under a Community Right to Build Order or a Neighbourhood Development Order (which in the latter case can include development which it is decided would have significant environmental effects and therefore requires environmental impact assessment). Similar considerations apply with respect to local transport infrastructure. As an example, the additional HGV parking proposed in the 2018 Cobham decision involved hardstanding and HGV parking on an area that was previously a grass slope.
133. The question is whether, having regard to that context, there would be any material effect on the openness of the Green Belt as a result of the development. It is common ground that spatial and visual matters are to be examined.
134. In relation to the spatial aspect, there would be physical development, but in the context of paragraph 146 it would not be material. Buildings would occupy only 4% of the site, hardstanding (parking, roads, pedestrian provision) 40% and 56% of the site would be landscaping. (Document APP8 Figure.3)
135. In relation to the visual aspect, the Council's concern is with the effect on openness arising from the planting proposals. However, the existence of substantial planting is a characteristic of the area around the appeal site, for example Long Plantation, Duckers Holt and the Stane Hill Plantation. That characteristic of the surrounding area is also recognised in the landscape analyses prepared for the Council by Ecus and Golder Associates. (Documents 88 pages 55-65 & 89 pages 28-30)
136. The main view reduction across the site would be from the A1(M). Those views are inevitably fleeting and of relatively low importance in any planning judgement. Moreover, the findings of the LVIA submitted with the application are agreed. That assessment concludes that there would be no more than minor adverse visual and landscape effects once the scheme matures and that the motorway corridor is of low sensitivity in both landscape and visual terms. (Document CD76 paras.534, 543 & pages 168-171)
137. Openness from Green Lane would not be reduced by the appeal proposal. The site is on lower ground and at some distance from the viewpoint and there would be no breach of the skyline. Therefore, whilst the open land that was currently visible would be replaced in the view by trees and landscaping, there would not be any reduction in openness.
138. Overall, given that paragraph 146 contemplates significant development and that the landscape and visual impact of the proposal would not be significant once planting has matured, it is concluded this proposal would preserve the openness of the Green Belt.

Purposes of including land in the Green Belt

Purpose (c) –safeguarding the countryside from encroachment

139. The only Green Belt purpose with which the proposal could be said to conflict is encroachment on the countryside. However, the test of lack of conflict with the purposes of including land in the Green Belt within paragraph 146 has to be read in the light of the fact that the paragraph clearly contemplates development of substance, the semi-urban nature of area ALS5 as assessed in the Council's Green Belt Review, and the presence of the A1 (M) to the west of the site. In that context, there would be not be any material encroachment on the countryside. (Document APP12, appendix 4 page 19)

Purpose (e) – assist urban regeneration, by encouraging recycling of derelict and other urban land

140. There is no conflict with this purpose because there are no brownfield alternative sites for the proposal, and no evidence that the development would prejudice development of any brownfield or other urban sites.
141. The Council's concern that provision of a lodge would affect the viability of hotels in the urban area and affect other facilities by discouraging people from visiting the urban area is rejected. The provision of lodges at MSAs is common, accepted and not contrary to policy. C2/2013 contemplates that they may be permitted and they continue to be permitted. Ninety six of the 116 MSAs in England have lodges and all Green Belt MSAs with sufficient space on their sites have a lodge. (Documents APP10 para.9.3.21 APP12 appendices 3, 5 & 8)
142. That MSA lodges provide overnight rest accommodation for long distance road users is confirmed by a recent survey at nearby MSAs. (Document APP12 appendix 12) The range of facilities provided at MSAs, including hotel and retail facilities, are designed to be attractive to motorway drivers rather than becoming a destination in their own right. It has been accepted that they are unlikely to have any significant adverse impact on the vitality or viability of any nearby centre.
143. Whilst acknowledging that the emerging Local Plan is at an early stage and thus has limited weight, it nonetheless shows the Council's current thinking. Emerging policy 13(d) supports "secure lorry parking facilities and roadside service areas along the SRN (including overnight stay accommodation and toilet facilities, where possible)." Whether that is addressing HGVs needs only, as argued by the Council, or is addressing overnight accommodation in general, it can be seen that the Council is clearly recognising that such accommodation is appropriate and that it is not concerned about the impact of roadside accommodation either on town centres or on investment in the urban area. (Document CD86 page 24)
144. Overall, it cannot be said that the appeal proposal is in conflict with the purpose of assisting in urban regeneration.

Conclusion on appropriateness

145. For the reasons given, the proposal is not inappropriate development in the Green Belt

If inappropriate – effect on openness and Green Belt purposes

146. If, however, it is concluded the proposal is inappropriate, paragraph 146 of the Framework does not set a context for judgements about effect on openness and the Green Belt purposes. Nonetheless, for the reasons already set out, any effect of the proposal on openness and Green Belt purposes is limited, even if material. Further, if an MSA is needed, every reasonable effort has been made to keep those effects to a minimum.

If inappropriate – what other harm

Landscape, loss of countryside and visual harm

147. The findings of the LVIA have been accepted and it is common ground that once the development and landscaping has matured, there would be no impacts that would be more than minor in landscape and visual terms.

148. Even after one year of operation, the impacts would be modest, and even more modest than suggested by the matrix. The visual effects of the proposal have only been considered in terms of the extent to which the on-site planting would develop. The Community Woodland to the north is itself maturing and it is extremely likely that the site would not be visible from the agreed viewpoint or any other viewpoints along the Community Woodland paths within the next 5 to 6 years; with no visual effect at all by year 15. (Document APP6 para.7.3.3)

149. Whilst the site is within Landscape Character Area (LCA) C2 judged to be of high landscape value, as assessed in the Ecus Borough-wide Landscape Character and Capacity Study; there is wide variety within it. The Study distinguishes between the area to the west of the A1, which retains its distinctive rural character and the “more diverse modern influences to the east”. It also refers to the “lower landscape quality” east of the A1. Furthermore, even in relation to LCA C2 overall, the Study states that although the area is given an assessment of “high landscape value” in the light of the ASLV and the country parks in the area (the appeal site falls within none of these), the character area “as a whole” is judged to be of “moderate landscape quality”. (Documents CD88 pages 55, 56, APP6 section 8.3)

150. Although the MSA would be visible from the ASLV, such visibility is not a breach of the ASLV policy in the UDP (ENV 17), because ENV 17 does not deal with views from the ASLV, but only development within it. (Document 85)

Loss of agricultural land

151. The survey by Savills that was initially submitted suggested that there would be a significant loss of grade 2 land. However, a further more detailed agricultural land assessment has now been undertaken by Mr Askew of Tim O’Hare Associates which shows that only 36% of the site is best and most versatile land falling within grade 2 or 3a (with only 3.6 ha or 23% falling within grade 2). The majority of the land to be developed is grade 3b, and therefore not best and most versatile. Further, the loss of the site to agriculture would not adversely impact on the agricultural unit of which it now forms part. (Documents CD73, APP10 paras.8.4.1-8.4.5, APP9 appendices 16 A & B, APP12 appendix 7)

152. The differences between the reports is set out in document APP9, appendix 16B. In terms of the results, Savills determined one soil type, whereas Mr Askew

determined three types. Also, Savills determined soil wetness as the only limitation but Mr Askew also determined soil droughtiness as a limitation at some profiles. Savills decided the top soil was calcareous, but Mr Askew disagreed and gave his reasons, based on the Soil Survey Field Handbook. Finally, Savills said there was only one type of wetness, but Mr Askew identified a range of wetness on the site.

153. Given Mr Askew's high qualifications, great experience, more meticulous methodology and rigorous assessment, it is not surprising that his results are more precise than those of Savills. His assessment is clearly to be preferred. It accords with the evidence on behalf of the owners that the land is of poorer quality near the roundabout; that is where Mr Askew identifies grade 3b land.
154. The points raised at the inquiry by the JRP in their written submission in respect of the agricultural land classification of the site have been comprehensively addressed in Mr Askew's written response. (Document INQ11)
155. The relevant requirement in CS policy CS18 is that proposals "protect high quality agricultural land (grades 1, 2 and 3a) insofar as this is consistent with the Growth and Regeneration Strategy (as set out in Policy CS2)". Any conflict with policy CS18 is avoided in this case because the appeal proposal falls within policy CS2(C), which provides that "a range of transport schemes will be developed and managed to support the settlement hierarchy and improve access to jobs and opportunities across the borough". (Document CD84)
156. In summary, although there is best and most versatile land at the site, the amount is limited and less than previously thought. Further, that limited loss would not adversely affect the viability of the agricultural unit. Quite apart from the fact that there are no suitable alternative sites, loss of best and most versatile agricultural land is not a sound reason to dismiss the appeal.

If inappropriate, are there very special circumstances

157. There are very special circumstances which clearly outweigh the harm to the Green Belt and any other harm. Reliance is placed on what has already been said about the importance for safety reasons of proper MSA provision as emphasised by Government in C2/2013, on the need for an MSA in this area, and on the lack of alternatives.

Scale of the proposal (Documents APP10 paras. 9.3.10-9.3.29, APP12 appendix 5 & 9)

158. The scale of the proposal is entirely justified and is in line with the type and scale of facilities that experience elsewhere has shown motorway users value and require. The principle of lodge provision is dealt with above under Green Belt purposes and the size of it accords with those provided in other MSAs, including those in the Green Belt and recently permitted. The same can be said of the amenity building and retail provision. There is nothing unusual in the size of the amenity building or lodge proposed here.
159. The drive thru' coffee unit is an appropriate facility at an MSA, because it is a way of providing motorists with a break from their drive. The only difference from other more traditional facilities is that they do not have to leave their car.
160. The proposal is particularly economical in its land-take as compared with expectations for MSAs contained in C2/2013, because although the Circular

requires separate parking for lodges where they are provided as part of MSAs, it has been agreed with Highways England in this case that no separate parking provision is required.

161. MSAs are there to serve people travelling on the motorway network, and they need to be sufficiently attractive to provide motorists with facilities they expect and want. There is good reason for what is proposed. There is no evidence that either the lodge or retail facilities would have any detrimental impact on town centres, or investment in urban areas or derelict land. Highways England supports the proposal, so it is clearly satisfied that the facilities provided would not be a destination in their own right leading to an overall increase in trips.
162. Even if the lodge were not provided and the retail facilities reduced in scale, the effect on the Green Belt would not be materially less. The buildings would cover only 4% of the site. The parking provision would not reduce, because that is based on traffic flow and not the scale of retail facilities and in this case there would be no separate parking provision for the lodge.

Improving the transport network

163. The proposed MSA is supported by the general objective of policy CS9 to make an overall contribution to the improvement of the transport network. It does so by fulfilling a need for an MSA at this location which would in turn improve the safety and welfare of road users. Support is also to be found in CS9(D) specifically which states (**Document 84 page 53**)
- "Proposals will be supported which improve the efficiency of freight transport, and provide alternatives to roadside transport where possible, including...*
- 2. facilities for lorry parking and roadside service areas, where appropriate..."*
164. As with emerging policy 13(D) the Appellant does not concur with the Council that this is addressing freight transport only but rather that "roadside service areas" is a general term, and providing for them ensures the Council is complying with the Government guidance in NPPF. (**para.104(e) and fn42**)

Economy and employment

165. The employment benefits of the appeal proposal would be significant. Some 215 jobs are likely to be created for local people. There would be a range of jobs available and a comprehensive training programme provided. This would benefit the local economy. (**Document CD70 page 19**)

Policy overview

166. In relation to national guidance, the appeal proposal is not inappropriate development in the Green Belt. Further, it comprises sustainable development in that it would deliver economic, social and environmental objectives, while providing an MSA where one is much needed, in fulfilment of the NPPF's policy on roadside services. For the reasons set out above, even if the proposal is inappropriate development in the Green Belt, very special circumstances in this case clearly outweigh any harm to the Green Belt and any other harm. (**Document APP10 para.11.2.2 and NPPF para.104 & fn 42**)
167. There is no conflict with the Development Plan read as a whole. The Council's assertions of policy conflict, in particular with policies in relation to countryside (CS3), agriculture (CS18) and the growth and regeneration strategy (CS2) have

to be considered in that context. The Core Strategy contains policy CS9, which supports the proposal insofar as it would improve the transport network, and which also contains specific provision for roadside service areas. But even if conflict were to be found, the need for the MSA provides the strongest material consideration indicating that planning permission should be granted. (Document 84)

Other matters

168. A number of issues raised by third parties, including effect on above-ground built heritage, air quality, impact on local water course, aquifer and flooding, noise, light, the degree of public consultation, health, impact on wildlife and crime are dealt with in the written evidence. None justifies refusal of planning permission. All were considered fully by the Council and relevant consultees, and no objection raised. (Documents APP10 paras.8.5.4 & section 10, & CD83)
169. In response to specific points made by the JRP not dealt with above:
- a) The ES concluded that there would be no direct or indirect impact on heritage assets that would affect their significance. Historic England (responsible for Grade 1 listed Brodsworth Hall) was not consulted about the application but nonetheless has subsequently been made aware of the proposal. There would be no views of the site from the Hall and its setting would not be affected.
 - b) Views of the site afforded to coach travellers visiting the Hall would not normally be assessed in an LVIA. In this case, for those looking out and towards the site, any effect would be influenced by intervening trees and hedgerows and primarily by the motorway in the foreground (including the elevated section at junction 37) which would, in part, screen the site. Once landscaping matured, the site would not be visible.
 - c) The Environmental Statement had scoped the Marr Conservation Area out of the area in respect of which an assessment of potential effects on archaeological and cultural heritage was required. (Document CD76 chapter 8)
 - d) Reliance placed on the findings of the Golder Landscape Character and Capacity Study that development of the appeal site should be resisted is misplaced. The site assessed was much larger in size and the development to be accommodated not comparable. Moreover, if development was to take place the report stated it should be to the east of the A1(M). (Document CD89 pages 28-30)
 - e) The occurrence of observed traffic queues at the roundabout are not disputed but December is not a representative month and the Appellant's figures are mean maximum and so would not reflect the daily variation that would occur. The Appellant's traffic survey data and methodology, using standard industry practice, has been agreed with HE who also commissioned its own independent survey to corroborate the assessment work. Both HE and the Council are satisfied that there would be no severe effect on the road network which would remain within capacity. (Documents CD93 & CD94)
 - f) The issue of air quality was fully assessed within the ES and the conclusion reached that all impacts during construction and operation would have a negligible impact on air quality. There is no evidence to the contrary. (Document CD76 section 6)
 - g) The reference to HS2 in the JRP written submission is misplaced as it is not committed development.

h) The design has incorporated a lighting scheme aimed at ensuring levels would not increase above existing levels having regard to existing levels at junction 37.

(Documents CD76 section 11 & APP6 pages 16 & 17)

Conclusion

170. The appeal should be allowed:

- An MSA is needed in this area and the scale of facilities proposed is justified;
- There are no suitable alternatives;
- The appeal proposal comprises appropriate development in the Green Belt;
- If it is inappropriate, the need for the development and its benefits comprise very special circumstances which clearly outweigh harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal; and
- There is no conflict with the Development Plan overall, and even if there is, the need for the MSA in this location comprises a material consideration which points strongly to the grant of permission.

PLANNING CONDITIONS AND PLANNING OBLIGATION

171. A list of conditions that might be necessary should planning permission be granted was discussed and refined during the course of the inquiry. The finalised set as agreed by all parties and the reasons for them are set out at Appendix 3 to this report. For those conditions which comprise pre-commencement conditions, and in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Appellant has confirmed in writing that their inclusion and their wording is necessary and appropriate to enable the grant of planning permission. (Document INQ13)

172. **Conditions 1 and 2** are standard conditions relating to the commencement of the development and listing the approved drawings. Not all drawings have been included as, for example, some are illustrative and others demonstrate vehicle tracking. Appendix 1 to this report includes a brief comment as to their inclusion or exclusion.

173. **Conditions 3, 4 and 5** are concerned with limiting hours of construction, providing of a Construction Environmental Management Plan and limiting noise levels during construction. These are required to protect neighbouring amenity and to safeguard the environment. For the same reasons **condition 6** is intended to limit noise levels from the subsequent operation of the development. In the interests of appearance and protecting the environment, **condition 7** requiring details of external materials, **condition 12** addressing protection of retained trees, **condition 13** concerning planting and **condition 17** requiring details of lighting are promoted.

174. **Condition 8** addressing a BREEAM assessment and **condition 9** addressing CO2 emissions from the development are aimed at promoting sustainable development and minimising the effects of climate change. **Conditions 10, 11 and 16** requiring electric vehicle charging points, bus stops along the A635, and the submission of a Travel Plan are aimed at encouraging sustainable modes of travel.

175. To protect the ecological and archaeological interests of the site a Biodiversity Enhancement Master Plan is required by **condition 14** and a Written Scheme of Archaeological Investigation by **condition 15**. Finally a Construction Traffic Management Plan is required by **condition 18** to minimise any effect on neighbouring highways during construction of the development.
176. A fully executed **planning obligation made under s106 of the Act** is to be found at document CD97 wherein the development shall not be occupied until such time as the Travel Plan Transport Bond has been paid to the Council. The Bond shall only be used by the Council in the event that agreed targets in the Travel Plan are not met and then only towards the travel and transport needs which directly arise from the development. In the event that any part of the Bond is not expended within five years, the Council shall repay the money with any interest accrued. In the event that the appeal is dismissed, the deed would cease to have effect.
177. The obligation is necessary to ensure delivery of the Travel Plan targets. It is thus necessary to make the development acceptable, is directly related to the development, and is fairly and reasonably related in scale and kind. A CIL Compliance Statement from the Council which draws support from its published Supplementary Planning Document *Development Guidance and Requirements* is included at document INQ1.

INSPECTOR'S CONCLUSIONS

[Numbers in square brackets [n] denote source paragraphs]

178. The main consideration in this case is whether the proposal amounts to inappropriate development in the Green Belt having regard to Development Plan policies and the provisions of the NPPF and if so whether the potential harm by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

Inappropriate development?

Planning policy - application

179. Saved Doncaster Unitary Development Plan (UDP) policy ENV3 addresses proposals in the Green Belt and states that development will not be permitted except in very special circumstances other than for a number of purposes which are listed. None of those exceptions embrace the construction of a Motorway Service Area (MSA) so the proposal would comprise inappropriate development when assessed against that policy. However, the UDP was first adopted in 1998 and the accompanying text indicates that the policy was aimed at reflecting Government guidance then in force in the *Planning Policy Guidance 2 Green Belts*. That document has since be replaced by more up to date Green Belt guidance in the National Planning Policy Framework (NPPF). In these circumstances, inconsistency with NPPF Green Belt guidance is a material consideration. [26]
180. The Council's Core Strategy (CS) is a more recent document having been adopted in May 2012 after the publication of the first NPPF. Policy CS3 states that one of the key considerations for land in the Green Belt is to apply national policy, including a presumption against inappropriate development other than in

very special circumstances. The policy is, therefore, consistent in its phraseology with national policy in the current NPPF. Criterion (C) 4 of the policy goes on to say that proposals outside development locations will only be supported where they would “preserve the openness of the Green Belt (and ...) and not conflict with the purposes of including land within them”. [20]

181. Against this background, in assessing whether the proposal constitutes inappropriate development, it is therefore apt to apply current national policy. Paragraphs 145 and 146 of the NPPF provide guidance as to what development might be found to be not inappropriate.

Paragraph 145 or 146 of the NPPF?

182. Starting then with paragraph 145, this states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Notwithstanding the small percentage of the overall site which the Appellant says would be occupied by building; the amenity building, lodge, drive through and fuel filling station are all significant and substantial elements of the proposal. There is in addition, the canopy over the fuel pumps, and ancillary structures to the rear of the amenity building such as the biomass and energy centres and fenced compounds. The construction of these buildings does not fall within any of the exceptions listed in paragraph 145 and assessed against that paragraph, therefore, the proposal comprises inappropriate development. [28, 31, 50, 134]
183. Since the follow on paragraph, paragraph 146, of the NPPF, begins by stating “Certain other forms of development are also not inappropriate ...” that must mean forms other than the construction of buildings. That would give that sentence its ordinary meaning and would indicate that the categories listed (a) to (f) in paragraph 146 were forms of development other than the construction of buildings. If that is right, paragraph 145 is a closed list addressing all circumstances where the construction of buildings is not inappropriate and, since the appeal proposal involves the construction of significant buildings, paragraph 146 would not apply. [50, 51]
184. The Appellant says the fact that buildings are included in the proposal does not disqualify it from being considered under paragraph 146. In support, attention is drawn to categories 146(a) mineral extraction and 146(f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order. These, the Appellant says, would be likely to involve the construction of buildings particularly given the definition of “building” within section 336 of the Act which includes any structure or erection and any part of a building as so defined but excludes plant or machinery comprised in a building. However, to accept that argument would be to interpret the opening sentences of paragraphs 145 and 146 in a manner other than to give them their ordinary meaning. Moreover, as was pointed out by the Council, other types of development could be brought forward under those categories in paragraph 146 without involving the construction of buildings. Examples might be an extension of a mineral extraction area, the provision of a car park or use of land as a playground. [52, 124-127]
185. I conclude from the above that the proposal does fall to be considered under paragraph 145 of the NPPF and that it comprises inappropriate development in the Green Belt.

Local transport infrastructure which requires a Green Belt location?

186. However, in the event that the Secretary of State does not agree and finds that the proposal should be considered under "Certain other forms of development" addressed under paragraph 146, I go on to consider whether the proposal would come within category (c) – local transport infrastructure which can demonstrate a requirement for a Green Belt location.
187. There is no dispute between the parties that the proposal comprises transport infrastructure and I find no reason to disagree. The disagreement is whether it can properly be described as "local". There is no definition of the term "local transport infrastructure" to assist.
188. The Department for Transport's Circular 02/2013 (C2/2013) says MSAs and other roadside facilities perform an important road safety function. The network of service areas on the Strategic Road Network (SRN) has been developed on the premise that opportunities to stop are provided at intervals of approximately half an hour. That dictates the recommended distance between MSAs. The Circular is clearly aimed at providing services for the benefit of drivers on the SRN (and providing MSAs for the benefit of drivers on the motorways in particular) and not aimed at catering for the needs of drivers on the local highway network. Indeed, caution is expressed in paragraph B11 in relation to trip mileage where there is potential for the facilities to become a destination in their own right. [30, 53, 129]
189. Whilst one element of the overall scheme would assist in addressing a shortage of HGV parking in the area, there is no other identified local need which would call for an operation of the size proposed to be built. There is no local need for a new MSA to be located on the appeal site; the need arises from the distance between existing MSAs on the motorway network which happens to suggest there may be a need in the area. That, in itself, is not sufficient to conclude that the proposal is local transport infrastructure. [115]
190. I find that the proposal does not comprise local transport infrastructure and thus does not fall within paragraph 146 of the NPPF. In reaching that view I have had regard to the appeal decision relating to the Cobham MSA on the M25 drawn to my attention by the Appellant. However, that proposal was for additional HGV parking within an existing MSA. Whilst the inspector in the circumstances of that case found the proposal to constitute a local transport infrastructure facility, it was not a proposal for a new MSA, the need for which is dictated by the distance between services on the motorway network, that was being considered. I do not find it directly comparable such that it leads me to a different conclusion. [97, 128]
191. If, contrary to my view, the Secretary of State was to find the proposal did constitute local transport infrastructure, a requirement for a Green Belt location would be necessary to satisfy paragraph 146(c). It is common ground between the parties that should a need for a new MSA be accepted on the basis of the requirement to fill a gap between existing motorway services, then there is no other suitable site to be preferred to the appeal site. The Appellant's Alternative Sites Assessment and subsequent supplementary evidence has not been challenged and I find no reason to doubt the findings. Thus, a requirement for a Green Belt location could be demonstrated. [41-43, 123, 130]

Preserves openness and does not conflict with the purposes?

192. Paragraph 146 of the NPPF makes clear that even if the proposal falls within 146(c) there are also the provisos of preserving the openness of the Green Belt and not conflicting with the purposes of including land within it.

Effect on the openness of the Green Belt

193. Paragraph 133 of the NPPF sets out the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open and identifies the essential characteristics as openness and permanence.

194. The appeal site forms part of a long swathe of open agricultural fields stretching between the A635 to the south and Green Lane to the north and between the A1(M) to the west and Long Plantation to the east. The only interruption of substance are the two woodland areas, Stane Hill and Stane Hole Plantations. The open expanse of farmland is devoid of development save for the overhead cables and the telecommunications mast at the southern extremity and is physically and visually separated from suburban development to the east and north-east by Long Plantation. In context, the main detractor from the openness of the area within which the site sits and is seen is the existing motorway and the activity along it, but this is contained within well-defined linear boundaries as it passes through the countryside. [7-11, 15]

195. Whilst the Appellant says some 56% of the site would be taken up with landscaping, that still results in almost half of the 15.1 hectare site covered by built development – that is the buildings and the hardsurfaces for parking and vehicular and pedestrian circulation. Given that the facility would be open 24 hours a day, 365 days a year, there is unlikely to be any time when there would be no activity on the site or any time when the extensive areas of parking would be empty, albeit that it would be likely to be quieter late at night and in the early hours of the morning. [31, 58, 101, 134]

196. At present, the appeal site seamlessly forms part of a much larger open area of agricultural land. In spatial terms the built development on the site would result in a substantial loss of openness on the site itself and on the open tract of arable land of which it forms part and this would be exacerbated by the presence of parked vehicles including large lorries, coaches and caravans on the extensive parking areas. Furthermore, notwithstanding that openness is already impacted by the presence of the adjoining motorway, the proposal would result in significant additional harm by the introduction of substantial development beyond the contained line of the road, where currently there is nothing of note.

197. In visual terms, I note the findings of the LVIA that after 15 years there would be no more than minor adverse visual and landscape impacts. From my consideration of the evidence and from my site visit I find no reason to conclude differently. It is clear that the landscape design has been carefully developed to assimilate the MSA into its surroundings. A significant part of that is tree planting, in particular around the site boundaries to screen the development from public viewpoints outside the site. Nonetheless, would still be some minor adverse effect at year 15, the accepted industry standard period for LVIA. Moreover, even in visual terms there would be loss of openness in that the continuous open sweep of arable farmland between the A635 and Green Lane

would be eroded by the enclosure of the appeal site even though, in time, that would have a wooded appearance. [35, 46, 59, 135-137]

198. The impact on openness resulting from the development in spatial terms would be considerable and this would not be lessened by screening the development from view albeit that the wooded effect which would in time be achieved would help to integrate the site in its setting. That substantial built development, as is proposed here, does not have any impact on openness because in time it would barely be seen from any public viewpoint is not a good argument. It could be used to justify all manner of built development in the Green Belt, which would not achieve the aim of keeping land permanently open or preserving openness.
199. I have noted the Appellant's argument that paragraph 146 of the NPPF contemplates development which has a significant physical impact. In this respect the categories of development listed under paragraph 146 plainly anticipate some change and I acknowledge that whether the openness of the Green Belt is preserved, or conversely harmed, is not simply a question of whether something, which by definition has a spatial impact, is to be built. It could be, for example, that an extension proposed to an existing development would have no greater impact overall on the openness of the area. It is a matter of planning judgment. [131-133]
200. For the reasons given above, in my judgement, the appeal proposal would not preserve the openness of the Green Belt.

Conflict with the purposes of including land in the Green Belt?

201. Dispute between the main parties exists only in relation to purposes (c) – safeguarding the countryside from encroachment and (e) – assisting in urban regeneration by encouraging the recycling of derelict and other urban land, as set out in paragraph 134 of the NPPF. [39]
202. Looking at purpose (c) first, the physical and visual separation of the appeal site from existing development to the east and north east, provided by Long Plantation, places the site firmly within the countryside when assessing it both in terms of its character and appearance. Whilst area Adwick Le Street 5 (ALS5) within which it sits in the Council's Green Belt Review is described as reflecting a semi-urban character, that area is far more extensive than the appeal site, accommodates a degree of built development, and in places adjoins built up areas. [60, 139]
203. The presence of the motorway on the western side of the site is an intrusion but motorways, by their very nature, cut through the countryside. The extent of the intrusion is contained by their linear form. In contrast the proposed MSA would result in a substantial spread of built development beyond the well-defined line of the motorway and over an area almost devoid of development. It would result in a significant material encroachment into the countryside and thus be in conflict with purpose (c).
204. With regard to purpose (e), should a need for an MSA be established, then it would be entirely appropriate for it to offer the range of facilities normally to be expected at such an establishment. There is nothing about the scale or range of facilities proposed that would set it apart from other MSAs or that would suggest that it would become attractive as a destination in its own right. The lodge, for example, would offer nothing but basic bedroom accommodation – there would

be no communal lounge, bars or restaurants and no conference room facilities. It is clearly aim at catering for motorway drivers on long journeys in need of a break for the night rather than attempting to attract visitors to the area who would be likely to look for hotels situated in a more inviting environment and offering a better range of facilities. [61, 158-162]

205. There would, of course, be nothing to prevent local people or visitors to the area using the facilities, but their provision on this site would be dictated by the need for an MSA. There is nothing of substance from which to conclude that the MSA would in any way materially affect urban regeneration in the area and thus there is no conflict with purpose (e).

Conclusion on whether the proposal amounts to inappropriate development

206. Since the proposal involves the construction of new buildings, it falls to be assessed under paragraph 145 of the NPPF. The list in paragraph 145 is a closed list which identifies the only exceptions where the construction of new buildings in the Green Belt are not inappropriate. The proposed MSA does not come within any of the exceptions listed and thus comprises inappropriate development.
207. If the Secretary of State disagrees and considers the proposal comes within the description of "Certain other forms of development", then it would fall to be assessed under paragraph 146. However, even if that were to be the case, in my view, the development would still be inappropriate since, for the reasons given, it would not comprise "local transport infrastructure", it would not preserve the openness of the Green Belt and it would be in conflict with one of the purposes of including land within the Green Belt, namely assisting in safeguarding the countryside from encroachment.
208. The development is in clear conflict with policy CS3 of the Core Strategy which is consistent with national Green Belt policy in the NPPF.

Other harm

Landscape, loss of countryside and visual amenity

209. Consideration of these matters overlaps, to a degree, with the assessment already made in terms of loss of openness in visual terms and encroachment into the countryside. In this respect it is common ground between the main parties that there would be some minor adverse impacts in landscape and visual amenity terms at year 15. With those agreed findings, and notwithstanding that planting on the site would continue to mature thereafter, it cannot be argued that no harm would ensue or that there would be no conflict with the requirement of policy CS3 to protect and enhance the countryside. However, having looked from the young Community Woodland to the north, I do agree that views towards the site from that direction are likely to be obscured in the next few years as the planting in that area matures. [20, 46, 62, 147-150],
210. In addition to the landscape and visual effects, the physical loss of this undeveloped site to built development represents an unwelcome intrusion of an urban nature into the countryside. The presence of the adjoining motorway provides no justification for additional development – indeed it might be argued that there is a need for more protection given that land around the motorway junction might be attractive for development.

Loss of agricultural land

211. Policy CS18 supports proposals which protect high quality agricultural land (grades 1, 2 and 3a) insofar as it is consistent with the Growth and Regeneration Strategy as set out in policy CS2. The accompanying text indicates that where the loss of agricultural land to built development is required to deliver the Growth and Regeneration Strategy, poorer quality land should be used in preference to higher quality land to the extent that this is practicable. [24]
212. The Appellant's recent and detailed Agricultural Land Classification assessment concludes that only some 36% of the appeal site comprises best and most versatile land, the remainder being of only moderate quality. That finding is not disputed by the Council. The Joint Rural Parishes (JRP), however, argue that the initial Agricultural Land Assessment, submitted with the application, which found the whole appeal site to be grade 2 should be preferred given the errors and inconsistencies in the later document. [63, 79, 80,]
213. No technical evidence has been presented to challenge the findings of the most recent assessment and the author of that document has gone to some lengths to explain the reasons why a different conclusion has been reached when compared to the initial assessment. Whilst the errors in the document suggest a lack of care in presentation, I find this insufficient reason, in itself, to discount the findings of a what is clearly a much more detailed assessment of the quality of the agricultural land on the appeal site. [151-154]
214. Nevertheless, the proposal would result in the loss of a sizable amount of best and most versatile land (over one third of the site), albeit less than was originally envisaged and, in that respect, there is conflict with policy CS18. The Appellant's suggestion that such conflict is avoided because the proposal falls within policy CS2(C) is not accepted as the MSA is not aimed at supporting the settlement hierarchy or improving access to jobs and opportunities across the Borough. It is intended to provide for the safety and welfare of motorway users. [155]

Other potential harm raised by the JRP and interested persons

215. I can understand the concern of local people about congestion at the junction as it is clear that they have personal experience of queues at certain times of the day. However, the Transport Assessment undertaken for the Appellant has been prepared in accordance with industry standards and the findings scrutinised and agreed by the local highway authority and Highways England (HE), both of whom concur that the residual cumulative impacts of the development would not be severe and that the appeal should not be dismissed on highway grounds. Indeed, HE also commissioned its own independent survey to corroborate the assessment work. In the absence of any contradictory evidence of substance from which to reach a different conclusion I find the development would result in no material harm to existing highway conditions. [2, 44, 45, 81-87, 90, 169(e)]
216. Similarly, it is unsurprising that local people are concerned about air quality given that the Hickleton Air Quality Management Area has recently been extended to embrace Marr. Traffic levels along the A635 through these villages is high. However, that is an existing problem and the effects of the development on air quality was assessed in the Environmental Statement (ES) submitted with the application where it was concluded that there would be a negligible impact. There is no evidence from which to conclude differently. [88, 89, 106, 169(f)]

217. The heritage assets, Brodsworth Hall and the Marr Conservation Area, are both a considerable distance from the appeal site and on the opposite side of the motorway. The distances and the physical separation arising from the line of the motorway are such that there would be no impact on the setting of either. The ES found no direct or indirect impact on heritage assets that would affect their significance. I see no reason why visitors going to the Hall by coach might suffer any material harm by being able to see the MSA beyond the motorway. [100, 169(a), (b) (c)]
218. With regard to concerns raised about noise and light pollution, the MSA would be situated in an area which already suffers from motorway noise throughout the day and night and the lighting scheme design is aimed at ensuring light levels would not increase above existing levels at the junction. In addition, conditions to be attached to any permission granted are suggested to control these matters. Both matters were assessed in the ES. Increase in litter is another concern raised but, in my experience, MSAs are well provided with litter bins. Given that patrons would primarily be travellers on the motorway there is no reason to conclude that an increase in litter in the local area would result. [101, 102, 169(h), 173]
219. Having regard to all other matters raised by the JRP and other interested persons, I find no other material harm to weigh in the balance.

Other considerations

The need for an MSA

220. There is agreement that the distance between Woodall Services on the M1 to the south of the site and Ferrybridge to the north is 31 miles which exceeds the recommended maximum distance between MSAs of 28 miles. In addition, whilst the distance between Ferrybridge and Doncaster North Services is only 19 miles using the shortest route, it is 29 miles using the longer route and paragraph B7 of C2/2013 indicates that the distances set out are considered appropriate regardless of route choice. [40, 112]
221. Although the Appellant describes the distance between the Blythe and Ferrybridge Services of 24 miles as substantial, it does not exceed the recommended maximum and cannot lend support to need, notwithstanding that a lesser gap might be desirable. Furthermore, it would not be appropriate to discount the MSA at Ferrybridge. Although situated on a junction of the M62, it is well signed from the A1(M) with direct access to it and the detour would not add significantly to journey time whether travelling in a north or southbound direction along the A1(M). Ferrybridge is well used and there is nothing from which to conclude that its facilities are not used by travellers on the A1(M). [113, 114]
222. Thus in terms of need, when assessed against C2/2013, there are only two gaps with excessive distances and then only 3 miles and 1 mile greater than the maximum; and the maximum in the Circular is only "recommended". Whilst 28 miles is based on providing an opportunity to stop every half an hour, paragraph B5 of the Circular states that the network of service areas on the SRN has been developed on the premise that opportunities to stop are provided at intervals of "approximately" half an hour. The application of the policy relating to spacing and stopping intervals is thus not mandatory nor is it an exact science.

- In terms of time spent travelling along a motorway, an additional 1 to 3 miles would be unlikely to add significantly to the drive time. [30, 69]
223. In addition, in the current instance, each of the two identified excessive distances includes the stretch of some 10 miles of trunk road with two signed services along both the north and south bound carriageways. At each of my visits, at different times of the day, it seemed to me that these services were well used. In my view they make a positive contribution to the safety and well-being of the travelling public by providing opportunities to stop and access relevant facilities. Those signed services do not provide all the mandatory facilities required for an MSA but they could not be expected to do so since they are not MSAs. [67, 68]
224. It would not, therefore, be appropriate to apply the mandatory requirements for an MSA as set out in Table B1 of C2/2013. The nature of the facilities that are available at each of the signed services has been agreed by the parties and is set out in the table attached to the Statement of Common Ground (SoCG) at document CD92. When compared with the minimum requirements for signed service areas for All Purpose Trunk Roads (APTR) in Table B1 it can be seen that not all mandatory requirements are met in full – especially in relation to parking and access to a cash operated telephone. [111]
225. Notwithstanding the shortcomings identified, each of the signed services offers a selection of facilities intended to support the welfare and safety of drivers travelling along this stretch of A1 trunk road. Their positive, if in some aspects limited, contribution to these objectives should not be completely discounted. Indeed, the shortcomings have not disqualified them from continuing to qualify as signed serves, the subject of sealed agreements, and I understand that each one has recently been refurbished. [71-73, 92, 117, 118]
226. With regard to safe ingress and egress at each of the signed services, the personal injury accident records over a 5 year period indicate an average of between 1 and 1.8 accidents a year on the A1 in the vicinity of three of the services and none near the fourth. Without further information, including the number of drivers using the services, it is difficult to draw a conclusion, but the figures do not appear high given that the use of any access poses a risk and the A1 carries high volumes of traffic. The accesses fall short of the standards for entry and exits from a petrol filling station set out in Design Manual for Roads and Bridges (DMRB) TD 41/95 *Vehicular Access to All-Purpose Trunk Roads* but again there is no information regarding level of use to indicate that they should apply. Even assuming that they should, it is not unusual for existing accesses to fall short of modern standards. In this case it is relevant that HE appears to have taken no action under the provisions of highways or roads legislation in connection with the standard of the accesses, nor is there any indication that, because of the standard of the accesses, they will not continue to qualify as signed services. [70, 119]
227. Finally, it would not be appropriate to disregard the contribution made by the signed services merely because there is an intention to upgrade this stretch of trunk road to motorway when there is nothing to indicate when and if such a proposal would proceed. [73, 120]
228. Given that the two gaps identified between MSAs only exceed the recommended distances by 1 and 3 miles and given some contribution is made to

the welfare and safety of the travelling public by the existing A1 signed services, I conclude that there is no pressing need to provide an additional MSA on the appeal site. A specific need for additional lorry parking in the area has been recognised, and such provision is supported by CS9 (D)1. Providing for that specific need would be a benefit of the scheme but that need does not, of itself, justify the provision of a new, full scale, MSA. [22, 115]

Economy and employment

229. It is acknowledged that the MSA would provide some 215 jobs and that this would benefit the local economy. [165]

The balance of considerations

230. Inappropriate development is, by definition, harmful to the Green Belt. Added to that, in my assessment of the proposal in terms of its effect on openness and on the purpose of including land in the Green Belt to safeguard the countryside from encroachment, I have found significant harm would result in relation to both. Paragraph 144 of the NPPF says substantial weight is to be given to any harm to the Green Belt. Also to be weighed in the balance are the other harms identified.

231. With regard to landscape, loss of countryside and visual amenity, the harm is not insignificant given that minor adverse impacts in landscape and visual amenity terms would remain at year 15. In addition, no matter how well it is designed, landscaped and screened, the provision of an MSA on the appeal site would result in the permanent loss of a large expanse of open land in the countryside given over to an urbanising form of development. Overall, significant weight should be attributed to these matters.

232. The amount of best and most versatile land to be taken out of agricultural use by the proposal has been found to be substantially less than was initially envisaged. Nonetheless a little over a third of the site comprises such land and that would be permanently taken out of production by the construction of the MSA. The loss of this land in conflict with policy carries moderate weight in the overall assessment.

233. Turning to the matters weighing in favour of the proposal the primary consideration is whether there is a need for an additional MSA in this location. A thorough assessment of alternative sites has been undertaken and, should such a need be established, the appeal site does represent the most suitable location. In my judgement, however, the gaps between MSAs, identified as being of concern, are not great and, with the contribution from the A1 signed services factored in, there is no pressing need for an additional MSA at the appeal site. Overall the availability of facilities is not so deficient so as to materially threaten the safety or welfare of the travelling public and the benefit of addressing the specific need for additional lorry parking does not warrant a full scale MSA. Thus, in reviewing the particular circumstances appertaining to this case and with the objectives of the safety and welfare of the travelling public in mind, I have concluded that there is no pressing need for the provision of an additional MSA. I therefore afford this matter limited weight.

234. The provision of employment is a corollary of the proposal and is acknowledged as a benefit arising that would support the local economy.

However, broad locations for employment are set out in policy CS2 and do not include Green Belt land. In the circumstances, therefore, the benefit has very limited weight.

235. Taking into account all the considerations weighing in favour of the proposal, I find nothing that, either individually or cumulatively, clearly outweighs the harm identified so as to amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.

236. In contrast to the Appellant, I find conflict with the Development Plan read as a whole. Policy CS9 does support proposals which would improve the transport network but that cannot be interpreted as support for any proposal in any location without having regard for the other policies of the plan and in particular those which seek to protect the Green Belt, countryside and best and most versatile agricultural land. Indeed, the specific support for lorry parking and roadside services areas in policy CS9(D) includes the caveat "where appropriate". I find no considerations sufficient to outweigh the conflict with the provisions of the Development Plan identified or to indicate that the proposals should be determined otherwise than in accordance with it. Development resulting in the harm identified, and in particular to the Green Belt, without overriding justification cannot be found to be sustainable.

INSPECTOR'S RECOMMENDATION

237. I recommend that the appeal be dismissed.

238. If the Secretary of State disagrees, the conditions set out at Appendix 3 should be attached to any planning permission granted.

B M Campbell

Inspector

APPENDIX 1 – APPEARANCES

For Moto Hospitality Limited:

Mr T Corner Queen's Counsel and
Ms H Sargent of Counsel, instructed by Collins & Coward Ltd

They called:

Mr T Russell Associate, Croft Transport Solutions
Ms S Illman Managing Director, Illman Young Landscape Design Limited
Mr A Collins Director, Collins and Coward, planning and development consultants

For Doncaster Metropolitan Borough Council

Mr K Garvey of Counsel, instructed by Mr S Fawcus, Assistant Director, Legal and Democratic Services

He called:

Mrs A Leeder Principal Planning Consultant, AECOM

Interested Persons

Mrs R Job Chair of the Joint Rural Parishes and Marr Parish Councillor
Mrs P Moorhouse Secretary to the Joint Rural Parishes and Brodsworth Parish Councillor
Dr N Balliger Member of the Joint Rural Parishes and Chair of Hampole and Skelbrooke Parish Council
Mrs A Mitcheson Local resident

APPENDIX 2 – DOCUMENTS AND PLANS

CORE DOCUMENTS	DESCRIPTION	REFERENCE	PLAN NO.	COMMENT RE INCLUSION IN CONDITION 2
CD1	Site Location Plan	BP01	PL-001A	Added to condition 2
CD2	Existing Site Plan	BP02	PL-002A	Added to condition 2
CD3	Proposed Signage	BP03	PL-015A	Not included, as needs separate advert consent
CD4	Amenity Building – Ground Floor Plan	BP04	PL-020A	Already in condition 2
CD5	Amenity Building – First Floor Plan	BP05	PL-021A	Already in condition 2
CD6	Amenity Building – Roof Plan	BP06	PL-022A	Added to condition 2
CD7	Amenity Building – Sections Sheet 1	BP07	PL-025A	Added to condition 2
CD8	Amenity Building – Sections Sheet 2	BP08	PL-026A	Added to condition 2
CD9	Amenity Building - Elevations	BP09	PL-030A	Already in condition 2
CD10	Lodge -Ground Floor Plan	BP10	PL-040A	Already in condition 2
CD11	Lodge – First Floor and Roof Plan	BP11	PL-041A	Already in condition 2
CD12	Lodge – Sections	BP12	PL-045A	Added to condition 2
CD13	Lodge- Elevations	BP13	PL-046A	Already in condition 2
CD14	Costa – Ground Floor, Roof Plan and Sections	BP14	PL-050A	Already in condition 2
CD15	Costa - Elevations	BP15	PL-055A	Already in condition 2
CD16	Fuel Filling Station – Ground Floor Plan	BP16	PL-060A	Already in condition 2
CD17	Fuel Filling Station – Roof Plan	BP17	PL-061A	Added to condition 2
CD18	Fuel Filling Station - Sections	BP18	PL-065A	Added to condition 2
CD19	Fuel Filling Station - Elevations	BP19	PL-066A	Already in condition 2
CD20	Biomass and Energy Centre	BP20	PL-070A	Already in condition 2
CD21	Chiller, Water Tank and Substation	BP21	PL-071A	Already in condition 2
CD22	Amenity and Lodge LPG Compounds	BP22	PL-072A	Already in condition 2
CD23	Proposed Aerial Views	BP23	PL-080C	Not included - aerial view to give an impression.
CD24	Proposed Aerial Views	BP24	PL-081C	Not included - aerial view to give an impression.
CD25	Proposed Amenity Building Views	BP25	PL-082B	Not included – computer image to give impression.
CD26	Proposed Amenity Building Views	BP26	PL-083B	Not included – computer image to give impression.
CD27	Proposed Amenity Building Views	BP27	PL-084C	Not included – computer image to give impression.
CD28	Proposed Lodge View	BP28	PL-085C	Not included – computer image to give impression.

CD29	Proposed Costa Drive thru Views	BP29	PL-086B	Not included – computer image to give impression.
CD30	Proposed Fuel Filling Station Views	BP30	PL-087B	Not included – computer image to give impression.
CD31	Regional Site Location plan	BP31	PL-090A	Not included – just showing site in wider context.
CD32	Extent of Retail Area	BP32	PL-099B	Added to condition 2
CD33	Proposed Site Plan	BP33	21603/001F	Already in condition 2
CD34	Landscape Masterplan	BP34	21603/003H	Already in condition 2
CD35	Entrance Plaza	BP35	21603/004B	Already in condition 2
CD36	Parking Numbers	BP36	21603/005F	Already in condition 2
CD37	Boundary Treatment Plan	BP37	21603/008C	Already in condition 2
CD38	SuDS Schematic	BP38	21603/009D	Already in condition 2
CD39	Planting Strategy	BP39	21603/010C	Already in condition 13 and added to condition 2
CD40	Flood Route Plan	BP40	21603/011D	Already in condition 2
CD41	Sections - Sheet 1 of 2	BP41	21603/012A	Added to condition 2
CD42	Sections - Sheet 2 of 2	BP42	21603/013A	Added to condition 2
CD43	Proposed Access to MSA	BP43	1186-F09F	Already in condition 2
CD44	Potential Bus Stop Arrangement with Pedestrian Facilities	BP44	1186-F03	Added to condition 2
CD45	Storm Drainage	BP45	4576-SK004P2	Already in condition 2
CD46	Foul Drainage	BP46	4576-SK005P2	Already in condition 2
CD47	Vehicle Tracking – Cars	BP47	4576-SK007P3	Not included – purpose is to show that layout plan works for cars.
CD48	Vehicle Tracking – Caravans	BP48	4576-SK008P3	Not included – purpose is to show that layout plan works for caravans.
CD49	Vehicle Tracking – Coaches	BP49	4576-SK009P3	Not included – purpose is to show that layout plan works for coaches.
CD50	Vehicle Tracking – HGV	BP50	4576-SK010P3	Not included – purpose is to show that layout plan works for HGVs.
CD51	Vehicle Tracking – Abnormal Load	BP51	4576-SK011P3	Not included – purpose is to show that layout plan works for Abnormal loads.
CD52	Vehicle Tracking – Fire Engine	BP52	4576-SK012P2	Not included – purpose is to show that layout plan works for fire engines.

CD53	Proposed External Lighting layout	BP53	8231-PE-Z0-XX-DR-E-0102-P04	Not included – details of lighting to be secured by condition 17.
CD54	Existing External Services Plan	BP54	8231-PE-Z0-XX-DR-ME-0800-P03	Not included – not relevant to the proposal.
CD55	Proposed Incoming Services Plan	BP55	8231-PE-Z0-XX-DR-ME-0801-P03	Not included – not relevant to the proposal.
CD56	Topographical Survey Overview Plan 1	BP56	22755_T-1Rev2	Added to condition 2
CD57	Topographical Survey Overview Plan 2	BP57	22755_T-2Rev2	Added to condition 2
CD58	Topographical Survey Overview Plan 3	BP58	22755_T-3Rev2	Added to condition 2
CD59	Topographical Survey Overview Plan 4	BP59	22755_T-4Rev2	Added to condition 2
CD60	Underground Utility Survey Detail Plan 1	BP60	22755_UG-1Rev2	Not included – not relevant to the proposal.
CD61	Underground Utility Survey Detail Plan 2	BP61	22755_UG-2Rev2	Not included – not relevant to the proposal.
CD62	Underground Utility Survey Detail Plan 3	BP62	22755_UG-3Rev2	Not included – not relevant to the proposal.
CD63	Underground Utility Survey Detail Plan 4	BP63	22755_UG-4Rev2	Not included – not relevant to the proposal.
CD64	Planning Application Form	BD01		
CD65	Planning Statement	BD02		
CD66	Alternative Sites Assessment	BD03		
CD67	Transport Assessment	BD04		
CD68	Travel plan	BD05		
CD69	Sustainability Statement	BD06		
CD70	Statement of Community Engagement	BD07		
CD71	Socio-Economic Statement	DB08		
CD72	Landscaping & Public Realm Strategy	BD09		
CD73	Agricultural Land Assessment	BD10		
CD74	Design & Access Statement	BD11		
CD75	Construction Environmental Management Plan	BD12		
CD76	Environmental Impact Assessment	BD13		
CD77	EIA Non-Technical Summary	BD14		
CD78	Business Case & Vision	BD15		
CD79	Lighting Assessment	BD16		
CD80	Employment Strategy	BD17		
CD81	Response to Representations	BD18		
CD82	Decision Notice			
CD83	Committee Report			
CD84	Core Strategy 2011-2028			
CD85	Unitary Development Plan			
CD86	Emerging Local Plan			

CD87	Green Belt Review 2016			
CD88	Landscape Character and Capacity Study (ECUS) Report 2007			
CD89	Landscape Character and Capacity Study (Golders) Report 2010			
CD90	National Planning Policy Framework 2018 ("NPPF2")			
CD91	Planning Practice Guidance ("PPG")	Not used		
CD92	Statement of Common Ground ("SOCG")			
CD93	2 Statements of Common Ground – Highways England			
CD94	Statement of Common Ground – Doncaster Highways			
CD95	Appellant's Statement of Case			
CD96	Council's Statement of Case			
CD97	Appellant's Section 106 agreement			
CD98	Department for Transport Circular 02/2013			
CD99	Council Development Guidance and Requirements SPD (2015)			
CD100	Tree Pit Details		21603/14	Added to condition 2.

APPELLANT DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY

- APP1 Correspondence with Doncaster Metropolitan Borough Council
- APP2 Proof of evidence – Mr T Russell
- APP3 Summary proof – Mr T Russell
- APP4 Plans 1-4 to Mr Russell's evidence
- APP5 Appendices 1-6 to Mr Russell's evidence
- APP6 Proof of evidence – Ms S Illman
- APP7 Summary proof – Ms S Illman
- APP8 Appendix 1 to Ms Illman's evidence
- APP9 Appendices 2-16 to Ms Illman's evidence
- APP10 Proof of evidence – Mr A Collins
- APP11 Summary proof – Mr A Collins
- APP12 Appendices 1-16 to Mr Collin's evidence

COUNCIL DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY

- LPA1 Appeal Questionnaire and attachments
- LPA2 Proof of evidence of Mrs Leeder with appendices A & B

DOCUMENTS SUBMITTED DURING THE INQUIRY

- INQ1 Planning Obligation CIL compliance statement, Inquiry notice, letter of notification of the inquiry and list of those notified
- INQ2 Booklet of application drawings at A3 size
- INQ3 Appellant opening submissions
- INQ4 Council opening submissions
- INQ5 Suggested conditions (1st draft)
- INQ6 Submission for the Joint Rural Parishes (versions 1 & 2) with appendices A-Q
- INQ7 Highways Agency TD41/95

- INQ8 Appellant acceptance of pre-commencement conditions (1st version)
- INQ9 Representation from Mrs Mitcheson
- INQ10 Aerial photograph
- INQ11 Appellant response on agricultural land classification
- INQ12 Suggested conditions (2nd draft)
- INQ13 Appellant acceptance of pre-commencement conditions (final)
- INQ14 Council closing submissions
- INQ15 Joint Rural Parishes closing submissions
- INQ16 Appellant closing submissions

APPENDIX 3 – CONDITIONS

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.

REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

Overall site

Drawing number PL001 Rev A (Location plan)
Drawing number PL002 Rev A (Existing site plan)
Drawing number 21603-01 Revision F (Site plan)
Drawing number 21603/03 Revision H (Landscape masterplan)
Drawing number 21603/10 Revision C (Planting strategy)
Drawing number 21603/04 Revision B (Entrance Plaza)
Drawing number 21603/005 Revision F (Parking numbers)
Drawing number PL099 Rev B (Extent of retail area)
Drawing number 21603/08 Revision C (Boundary treatment plan)
Drawing number 21603/09 Revision D (Suds schematic)
Drawing number 21603/11 Revision D (Proposed flood route alignment)
Drawing number 1186-F09 Revision F (Site access arrangements)
Drawing number 1186-F03 Revision F (Bus stop and pedestrian arrangement)
Drawing number 4576-SK-004 Revision P2 (Storm drainage)
Drawing number 4576-SK-005 Revision P2 (Foul drainage)
Drawing number 21603/12 Rev A (Sections)
Drawing number 21603/13 Rev A (Sections)
Drawing number BP56 22755_T-1 Rev 2 (Topographical Plan 1)
Drawing number BP57 22755_T-2 Rev 2 (Topographical Plan 2)
Drawing number BP58 22755_T-3 Rev 2 (Topographical Plan 3)
Drawing number BP59 22755_T-4 Rev 2 (Topographical Plan 4)
Drawing number 21603/14 (Tree Pit Details)

Amenity building

Drawing number 8231/PL020 Rev A (Ground Floor Plan)
Drawing number 8231/PL021 Rev A (First Floor Plan)
Drawing number 8231/PL022 Rev A (Roof plan)
Drawing number 8231/PL025 Rev A (Sections sheet 1)
Drawing number 8231/PL026 Rev A (Sections sheet 2)
Drawing number 8231/PL030 Rev A (Elevations)

The Lodge

Drawing number 8231/PL040 Rev A (Ground floor plan)
Drawing number 8231/PL041 Rev A (First Floor and roof plan)
Drawing number 8231/PL045 Rev A (Sections)
Drawing number 8231/PL046 Rev A (Elevations)

Costa Drive Thru

Drawing number 8231/PL055 Rev A (Elevations)
Drawing number 8231/PL050 Rev A (Ground Floor, Roof Plan and Sections)

Fuel filling station

Drawing number 8231/PL060 Rev A (Ground floor plan)

Drawing number 8231/PL061 Rev A (Roof plan)
 Drawing number 8231/PL065 Rev A (Sections)
 Drawing number 8231/PL066 Rev A (Elevations)

Ancillary buildings

Drawing number 8231/PL070 Rev A (Biomass and Energy Centre)
 Drawing number 8231/PL071 Rev A (Aircooled chiller, Water tank and Substation)
 Drawing number 8231/PL072 Rev A (LPG Compound)

REASON

To ensure that the development is carried out in accordance with the application as approved.

3. During the construction phase, operations shall be restricted to the hours of 07:00 to 18:00hrs Monday to Friday and 08:00 to 16:00hrs on Saturday. There shall be no operation on Sundays or Bank Holidays (other than special works subject to prior agreement in writing with the local planning authority).

REASON

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

4. No development shall take place until a Construction Environmental Management Plan (based on the draft document BD12 by Arup dated January 2017) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan.

REASON

The document is only in draft form and is required prior to the commencement of development to safeguard the environment and living conditions of neighbouring residents in accordance with guidance set out in the NPPF.

5. Noise levels arising from construction of the development shall not exceed the following noise limits at the specified locations. The exact position within those locations identified below shall be agreed in writing with the local planning authority prior to the commencement of the development :

Noise sensitive receptor	Description	Daytime limit (dBL_{Aeq,T})
1	North of site; Green Lane	65
2	North-east of site; Town View Avenue	65
3	South-east of site; Sheep Walk Lane	70
4	South-west of site; Marr Grange Lane	65
5	South-west of site; Barnsley Road	75

REASON

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

6. Noise levels arising from operation of the development shall not exceed the following noise limits at the specified locations. The exact position within those locations identified below shall be agreed in writing with the local planning authority prior to the occupation of the development:

Noise sensitive receptor	Description	Noise limit values in decibels (dB), L _{Ar,Tr}	
		Day (07:00 – 19:00)	Night (23:00 – 07:00)
1	North of site; Green Lane	27	26
2	North-east of site; Town View Avenue	25	23
3	South-east of site; Sheep Walk Lane	33	28
4	South-west of site; Marr Grange Lane	43	40
5	South-west of site; Barnsley Road	42	38

REASON

To safeguard the amenities of the occupiers of the adjoining properties in accordance with guidance set out in the NPPF.

7. Prior to the commencement of the relevant works, details of the proposed external materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

REASON

To ensure that the materials are appropriate to the area, in accordance with policy CS14 of the Doncaster Core Strategy.

8. Before the development commences, a BREEAM pre-assessment, or equivalent assessment, shall be submitted for approval demonstrating how BREEAM 'Very Good' will be met. The development shall be carried out in accordance with the approved assessment.

REASON

In the interests of sustainability and to minimise the impact of the development on the effects of climate change in accordance with policy CS14 of the Core Strategy.

9. No development shall take place in implementation of this permission until a report has been submitted to the local planning authority explaining how CO₂ emissions from the development will be reduced by providing at least 10 per cent of the development's energy through on-site renewable energy equipment or improvements to the fabric efficiency of the building. The carbon savings, which result from proposed measures, will be above and beyond what is required to comply with Part L of Building Regulations. The development shall then proceed in accordance with the approved report.

REASON

In the interests of sustainability and to minimize the impact of the development on the effects of climate change in accordance with policy CS14 of the Core Strategy. This condition is required to be discharged prior to commencement as the approved detail may have an impact on the design and fabric of the building during construction or the appearance of the development.

10. Prior to the occupation of the development, 6 electric vehicle charging points shall be installed and be operational in accordance with a scheme previously approved in writing by the local planning authority.
REASON
To contribute towards a reduction in emissions in accordance with air quality objectives and providing sustainable travel choice in accordance with policies CS9 and CS18 of the Doncaster Council Core Strategy.
11. Prior to the occupation of the development, bus stops shall be provided on Barnsley Road in accordance with a scheme previously approved in writing by the local planning authority.
REASON
To encourage sustainable modes of travel to the site in accordance with policy CS9 of the Core Strategy.
12. The erection of impact resistant barriers for the protection of any retained tree shall be undertaken in accordance with the approved Arboricultural Impact Assessment (reference 9277_AIA.001 dated January 2017) and the local planning authority notified of implementation. No works other than the installation of the barriers shall be carried out until the local planning authority has confirmed in writing that they have been properly installed. Thereafter, and throughout the period of construction, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials associated with the construction have been removed from the site. Nothing shall be stored or placed in any area fenced 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 that all trees are protected from damage during construction in accordance with core strategy policy CS16: Valuing our natural environment.
13. The planting proposals hereby approved shall be carried out no later than during the first planting season following the date when the development hereby permitted is ready for occupation and shall be in accordance with the scheme of landscaping shown on the Planting Strategy plan (ref: 21603/10 Revision C dated Jan 2017) and the Tree Pit Details plan (ref: 21603/14 dated March 2017). All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.
REASON
In the interests of environmental quality and core strategy policy CS16: Valuing our Natural Environment.
14. No development shall take place until a Biodiversity Enhancement Master Plan has been submitted to and approved in writing by the local planning authority. The content of the Plan shall include:
i) Baseline specifications for biodiversity creation and enhancement works and other ecological features specific to mitigation proposals for habitats, faunal groups and species.
ii) Provision of roosting and nesting opportunities within the site.
The development shall be carried out in accordance with the approved plan.
REASON
To ensure the ecological interests of the site are maintained in accordance with Core Strategy Policy 16.
15. Part A (pre-commencement)
No development, including any demolition or groundworks, shall take place until the applicant, or their agent, or successor in title, has submitted a Written Scheme of

Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

- i) The programme and method of site investigation and recording.
- ii) The requirement to seek preservation in situ of identified features of importance.
- iii) The programme for post-investigation assessment.
- iv) The provision to be made for analysis and reporting.
- v) The provision to be made for publication and dissemination of the results.
- vi) The provision to be made for deposition of the archive created.
- vii) Nomination of a competent person/persons or organisation to undertake the works.
- viii) The timetable for completion of all site investigation and post-investigation works.

Part B (pre-occupation/use)

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

REASON

To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated in accordance with policy CS15 of the Core Strategy.

16. A Travel Plan shall be submitted to the local planning authority within 3 months of occupation of the site. The development shall thereafter be operated in accordance with the approved Travel Plan.

REASON

To encourage sustainable modes of travel to the site in accordance with policy CS9 of the Core Strategy.

17. No lighting shall be installed on site until the details have first been approved in writing by the local planning authority. The lighting shall thereafter be installed and retained in accordance with the approved scheme.

REASON

To minimise light pollution in this countryside location in accordance with guidance set out in the NPPF.

18. The development hereby permitted shall not be commenced until a Construction Traffic Management Plan (CTMP) for the development is submitted to and subsequently approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):

- i) the proposed construction traffic route to the site to be identified on a plan
- ii) the daily movement of the construction traffic shall be profiled identifying the peak level of vehicle movements for each day
- iii) HGVs shall be prohibited from accessing the site during the SRN peak operating hours
- iv) details of and agreement to traffic management proposals at Junction 37
- v) contractors method for controlling construction traffic and adherence to routes
- vi) temporary signage
- vii) measures to be taken within the curtilage of the site to prevent the deposition of mud and debris on the public highway including a wheel wash station.

REASON

This information has not been provided and is required prior to the commencement of development to ensure highway safety in accordance with the guidance set out in the NPPF.



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

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Appeal Decision

Site visit made on 5 June 2019

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2019

Appeal Ref: APP/F4410/W/19/3225023

Lynbar, Martin Lane, Bawtry, Doncaster DN10 6NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Bramhald against the decision of the Doncaster Metropolitan Borough Council.
 - The application 18/03016/FUL dated 3 December 2018, was refused by notice dated 8 January 2019.
 - The development proposed is described as erection of 4 bedroom detached house with integral garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the development on (i) the living conditions of occupants of neighbouring properties; and (ii) the character and appearance of the area.

Reasons

Living conditions

3. The proposed development would be located close to the rear elevation of Magnolia House (confirmed by the occupier as formerly known as Fairways) which fronts onto Doncaster Road. The neighbouring property has a first-floor bedroom window facing the appeal site. The window would face onto the proposed development and whilst it would not look directly onto the two-storey side elevation of the proposed property the outlook from the window would be oppressive.
4. Magnolia House has a patio area adjacent the boundary with the appeal site. The position of the proposed development would dominate and overshadow the patio area.
5. The Council have confirmed that the side windows in the host property, Lynbar receive light from other windows to the rear, apart from the second-floor window. No substantive evidence has been provided, in the form of floor plans to confirm this arrangement. Notwithstanding this the location of the proposed development on the site would adversely affect the outlook from the host property.

6. I conclude that the proposed development would unacceptably harm the living conditions of occupants of neighbouring properties.
7. There is conflict with Policy CS14 of the Doncaster Core Strategy 2011-2028 (2012) (the Core Strategy) and Policy PH11 of the Doncaster Unitary Development Plan (1998) (the UDP) and the National Planning Policy Framework (2019) (the Framework) which amongst other things seeks to protect the living conditions of nearby properties.

Character and Appearance

8. The site lies within a residential area comprising predominantly two storey detached and semi-detached properties set back from Martin Lane. The properties vary in terms of materials and appearance with little rhythm to the architectural design.
9. The host property, Lynbar is a narrow 2.5 storey semi-detached property mirroring the attached property, The Elms. The area to the side of Lynbar is larger than the area to the side of The Elms, and would accommodate the proposed development.
10. The appellant has drawn my attention to the neighbouring property No. 2 Martin Lane in terms of footprint, scale and siting within the streetscene. Whilst design and relationship with the adjacent properties differ, I acknowledge the similarities between the proposed development and No. 2. Notwithstanding that each development needs to be considered on its individual merits and circumstances against the relevant policies and taking account of other material considerations. I have reached my conclusion based on the individual merits of the appeal proposal.
11. Whilst Magnolia House has a hipped roof, the modern design of the proposed development would not be out of keeping with the area given the variation in terms of design and scale of neighbouring properties.
12. The proposed development would be marginally closer to Martin Lane than the host property, and whilst closer to Doncaster Road the proposed development would not be dominant or visually intrusive in the streetscene.
13. The proposed development would introduce a built form into a gap between existing properties. Notwithstanding this the loss of spacing between Lynbar and the adjacent property Magnolia House would not harm the spatial character of the area.
14. Mature trees were removed from the site prior to the submission of the planning application. Whilst the Council state that the trees were of value no substantive evidence has been provided to demonstrate how the trees contributed to the area nor that they were protected.
15. Policy CS16 of the Core Strategy supports proposals which would enhance the landscape character of the area, whilst the loss of trees is unfortunate a planning condition could be imposed to ensure appropriate landscaping would be provided which would enhance the site in its existing condition.
16. I conclude that the effect of the proposed development would not harm the character and appearance of the area.

17. There is no conflict with Policies CS1, CS14 and CS16 of the Core Strategy and Policy PH11 of the UDP and the Framework which amongst other things seek to achieve high quality design that contributes to local distinctness and enhances the landscape character.

Other Matters

18. The Appellant has outlined dissatisfaction with the way the application was handled by the Council referring to the lack of discussion relating to the merits of the application prior to the refusal. This does not affect my consideration of the appeal which I have dealt with on its own merits.

Planning Balance

19. I have concluded that there would not be significant harm to the character and appearance of the area and I acknowledge that the proposed development would be in an accessible location and would add to the Borough's housing stock. However, this does not outweigh the harm I have identified in terms of the living conditions on the occupants of neighbouring properties.

Conclusion

20. I note concerns raised by neighbours relating to other issues, however, given my findings on the main issues it has not been necessary for me to reach a conclusion on these matters.
21. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR

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Appeal Decision

Site visit made on 7 June 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 June 2019

Appeal Ref: APP/F4410/W/19/3226052

2 Lauder Road, Bentley, Doncaster DN5 9RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Richardson against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 18/00971/FUL, dated 18 April 2018, was refused by notice dated 15 November 2018.
 - The development proposed is erection of 3 bedroom town house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue arising in the appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

3. 2 Lauder Road lies on a residential estate in the Bentley area to the north of Doncaster. Lauder Road itself is a quiet crescent-shaped residential road, meeting Haslemere Grove (becoming the Queen's Drive to the west) at both ends. Haslemere Grove meets the busy A19 Bentley Road to the east, shortly beyond the appeal site.
4. The appeal property lies at the easternmost end of Lauder Road at its junction with Haslemere Grove. Like its adjoining neighbour on Lauder Road, No 4, the house is oriented to face west, and its side elevation faces south onto Haslemere Grove. The side of the house is however aligned with the building line of the houses to the west, facing onto Haslemere Grove to their southern front elevations.
5. The immediate context of the property is as a red-bricked semi-detached dwelling with front, side and rear garden, on an estate comprised almost exclusively of similar properties. As a corner plot, the appeal property has a more generous side garden than most. There is some variation in house styles, with some having flat roofs, some comprised of yellow bricks, and some variation in bay window treatments. However the only immediate exception to this semi-detached character is the 'Companions House' conversion of a former public house into flats on Haslemere Grove, opposite the side elevation of the appeal property.

6. This character contrasts with the terraced properties on the surrounding streets including Bentley Road, some with commercial shopfronts below. There is a marked transition in character when exiting Bentley Road into Haslemere Grove, with an immediate view of more spacious dwellings, traffic calming measures, and a quieter and more open character.
7. The appeal proposal is to erect a house to the southern side of No 2 Lauder Road, resulting in a terrace of 3 houses. The existing frontage car parking to the side of No 2 would be removed, and parking for both dwellings would be to the rear, with access taken from Haslemere Grove, following the demolition of an existing garage. Subject to an acceptable boundary treatment, no objection is raised on highway safety grounds to this, and the living conditions of existing and future occupiers would not be adversely affected.
8. As well as removing the existing parking area, the proposal would replace the existing walls and fence with new brick walls of a more satisfactory appearance. At the time of my site visit the appeal property appeared to have suffered extensive fire damage to its rear, including to its garage, and the demolition of this garage, as proposed, would undoubtedly be visually beneficial. Overall, however, given the design and layout of the estate, the proposed development would unacceptably affect the character and appearance of the area.
9. The new dwelling would be sited in the side garden of the existing house. Although largely surrounded by a high fence at present, the existing absence of development here supports the open and spacious feel of the area. The proposed house would notably jut out from the established building line of the houses to the west, and be sited much closer to the road than the surrounding properties. As a result it would appear as a prominent and uncharacteristic addition to the street scene that would reduce the openness of the area. The creation of a small terrace would also be incongruous in this context of almost exclusively semi-detached dwellings, save for the pub conversion.
10. For these reasons, despite the limited improvements to the boundary treatment and the visually beneficial impacts of removing the existing parking arrangements and garage demolition, the harm to character means that the proposed development would not comply with Policy PH11 of the Doncaster Unitary Development Plan of 1998, which is permissive of new residential development except where harm to character results from the form of development, and it would not comply with Policy CS14 of the Core Strategy of 2011 - 2028, requiring development of a robust design that positively contributes to character.

Other matters

11. The proposed development would create work in construction if it were to go ahead, and new residents would be likely to spend locally. These would result in some limited economic benefits to the area. It is also suggested that housing needs in the area are not being met, by reference to the Council's housing land supply. The proposal would support the Government's policy objective of boosting the supply of housing. No details of the extent of any unmet housing need are before me in evidence, however. The provision of one extra house would be of some benefit but, in the absence of any details as to any unmet housing need, these benefits of the proposal are clearly outweighed by the identified harm to the character of the area.

Conclusion

12. For the above reasons the proposal would not comply with the development plan for the area and would cause harm to the area's character. There are insufficient benefits of the proposal to overcome the conflict with the development plan, and the appeal is dismissed.

Laura Renaudon

INSPECTOR

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**Doncaster
Council**

Doncaster Metropolitan Borough Council Planning Enforcement Quarterly Report July 2019

1.0 Introduction

- 1.1 This report provides Doncaster Metropolitan Borough Council's Planning Enforcement performance in the First Quarter 2019/20.
- 1.2 The months since the beginning of the new financial year have been relatively busy. Unfortunately, at present due to absent leave the team is operating with only two full time officers. We are currently in the process of interviewing applicants to fill a six months secondment opportunity, to assist with the backlog of outstanding cases, whilst also looking to employ and train an apprentice.

<u>Case Updates</u>	
Total Cases Still Under Investigation as at end of June 2019.	77
Total Cases Recorded in the First Quarter (1 st April – 30 th June 2019).	104
Total Cases Closed Down in the First Quarter (1 st April – 30 th June 2019)	63

2.0 Court Action

2.1 DMBC v Wheatley Hall Properties: Breach of TCPA Enforcement Notice – 1-3 Silver Street, Doncaster Town Centre (16/00195/M) - External Window Shutters In A Conservation Area.

The case was due to be heard in the Magistrates' Court on the 5th June 2019 however, Wheatley Hall Properties agreed that they would accept a simple caution and provide an acceptable scheme that must be approved and implemented within 3 months so, the prosecution is held in abeyance. Failure to achieve the required works will result in continuation of the prosecution.



2.2 DMBC v Millard: Breach of TCPA Condition Notice – Mallor, Moss Road, Askern.

The LPA granted permission for the erection of a detached bungalow known as 'Mallor' on the corner of Newmarche Drive in Askern.

The Planning Permission contained a condition that the development must be carried out in accordance with the approved plans.

The development was not carried out in accordance with the planning condition and was instead built with a glass door at the garages first floor level.

The owner sought to retain the unauthorised elements, and the LPA chose to serve a Breach of Condition Notice and then proceeded with a prosecution in Court.



The case was proven in absence in the Magistrates' Court on the 10th April 2019.

Sentence:

£660 fine, £1,327.74 costs, £66 Victim Support, 28 days to pay, collection order made.

Current Update:

The owner is still failing to comply with the required works and as such, a second prosecution is being considered by the LPA.

2.3 DMBC v Southall: Breach of Condition (14/00027/N) – 3 Alverley View, Springwell Lane, Balby.

The site lies within the Green Belt and has been subject to a planning application for the change of use of domestic garage to car minor repair and servicing operation. The planning application was refused and an enforcement notice was issued.

A trial was listed for the 29th May 2019 (four breaches of the enforcement notice (1) 15/12/17-28/3/18; (2) 8/12/18; (3) 11/12/18 and (4) 13/12/18. Mr Southall pleaded guilty to the three most recent breaches of the notice (8/12/18, 11/12/18. DMBC offered no evidence on the 15/12/17 - 28/3/18 charge and accepted guilty pleas to the recent three.

The notice has been complied with for several months.



Sentence: £270 fine for the 8/12/18 breach.

No separate penalty for the other two convictions.

Costs: £1,393.56. plus a £30 victim surcharge.

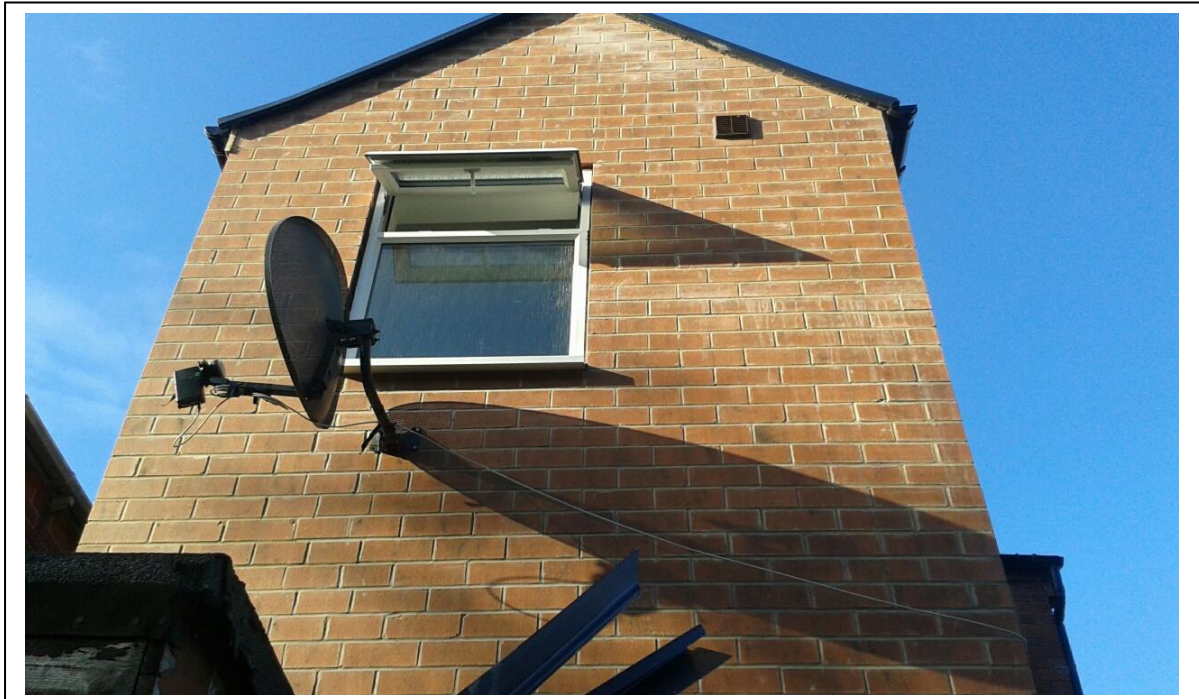
2.4 DMBC v Bloor: Breach of Enforcement Notice - 22 Kirk Street, Hexthorpe (16/00079/M).

The council received a complaint regarding a first floor rear extension and enforcement officers visited the property in November 2016 and found the extension had been built without planning permission.

The property owner, was served with an enforcement notice in April 2017, requiring the removal of the first floor extension and to return the remaining building back to its former condition by 2nd September 2017.

At Sheffield Crown Court on June 26, the owner admitted to breaching the enforcement notice served under section 179 Town and Country Planning Act 1990 for not having planning permission for the erection of a first floor extension to the rear of a property on Kirk Street, Hexthorpe.

Failure to comply with the enforcement notice to remove the unlawful extension continued for almost for one year, 7 months and 30 days.



the “significant planning harm” and harm to neighbours as evidenced in the Planning Inspectorate’s Appeal Decision and £3,199.60 costs.

3.0 Direct Action

3.1 During the first quarter a large amount of proactive work dealing with posters and banners has been undertaken. Relevant letters have been sent warning that repeat offending will result in fines and may result in prosecution action.

4.0 Pending Court Action

4.1 **18 Radiance Road, Wheatley – Enforcement Notice issued on the 4th March 2019.**



5.0 General Cases

The following are a few examples of cases currently under investigation by the Planning Enforcement Team:

5.1 Blaxton Quarry – Nottingham Place Investments.

Currently one of the largest cases planning enforcement have investigated, this is in relation to the use of an abandoned quarry that is being used for off-road motorbike and quad activities.

This has been a protracted case resulting in a lengthy planning investigation. Historic evidence suggests that advertisement of events had been taking place on social media with bookings taken via social media “messenger”. It was reported that over 100 riders were attending at a weekend, when the site was in full operation.

In addition, a JCB was used to form tracks and areas for off-road activities through the recorded sites of protected species (including great crested newts and reptiles) and wooded landscape. This resulted in a large amount of the woodland areas being damaged.

The great crested newt records are recent and suggest that there is a large population. As it is a criminal offence to kill or injure a newt or destroy its habitat, no earth movements, tree removal or construction activities should take place on the site until ecological surveys have informed the scope of necessary protection measures, and a license has been obtained from Natural England.

Furthermore, there is the potential that nightjar forage on the site. The impacts on these species need to be avoided so that the interests of Thorne and Hatfield Moors Special Protection Area are not compromised.



Despite assurances that this was either not happening or not sanctioned by the owning company, unfortunately activity on site appeared to have continued such that the LPA served a Temporary Stop Notice (TSN) and an enforcement notice to 'kick in' when the TSN lapsed. An appeal made against the notice.

The Local Planning Authority (LPA) attended the site with the Planning Inspectorate on the 3rd July 2019 as part of the appeal process. The Inspector decision followed shortly after the site visit and confirmed that the enforcement notice was properly served. He further stated that the use of the appeal site for motocross and fishing activities and the associated facilitating operational development went well beyond that which would have been permitted (i.e. 14 days in any calendar year as specified in The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), Part 4 at Class B. The appeal was dismissed and the enforcement notice was upheld.

For a copy of the full appeal decision please refer to Appendix 1: **Appeal ref: APP/F4410/C/19/3222999** - Blaxton Quarry, Land off Thorne Road, Blaxton, Doncaster, South Yorkshire DN9 3AX

5.2 Stockbridge Lane, Arksey – Traveller Sites.

A large quantity of work has already been undertaken on Stockbridge Lane, including the removal of unauthorised hardstanding/driveways, boundary walls and levelling/reseeding with grass at Stockbridge Farm in 2017 (DMBC cost £40,000+ which is registered as a land charge).

The LPA is constantly monitoring whether further enforcement work is necessary within the Stockbridge Lane area.

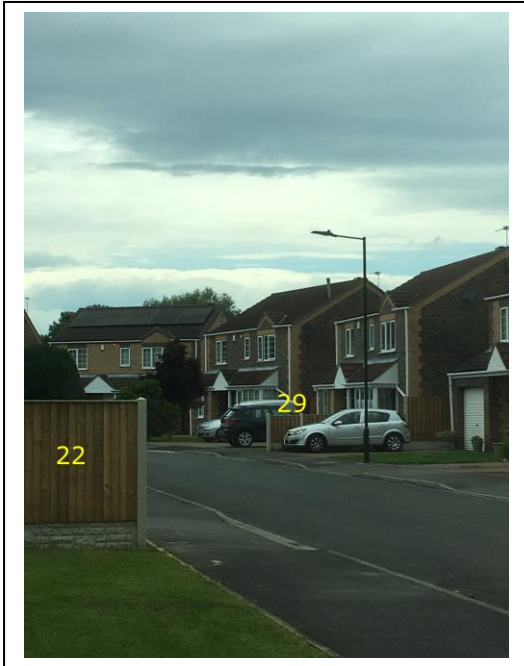
5.3 Hall Villa Lane, Toll Bar – Pony Paddocks (19/00165/M & 19/00225/H)

A complaint has been received that unauthorised development is taking place within and adjacent to an existing gypsy and traveller site. A site visit is planned to seek access the site and ascertain the nature of the development taking place and an update can be provided to planning committee on request.

5.4 Burns Street, Bentley – New Development

This case refers to the erection of an unauthorised fence, and a fence being erected higher than previously agreed by condition. The following compromise outcome was agreed (please refer to the sketch below).

5.6 22 & 29 Swanland Court, Thorne – Front boundary fences on an open planned estate (19/00197/M)



Fence over 1 metre high located at the front of the property next to a highway, used by vehicles. An open plan condition exists on the original planning permission meaning that the estate should remain open. The LPA advised that the fencing needs to be removed.

The fences remain in situ and consequently the LPA served Breach of Condition Notices, due to expire at the end of July 2019.

5.7 5 Swan Syke Drive, Norton – Erection of a 2 metre high boundary fence.

This case involves the erection of a two metre high fence on land surrounding the rear garden of a bungalow. An Enforcement Notice was served requiring:

(i) Remove the fencing and posts from the Land;

OR

(ii) Reduce the height all fencing which is located within 2 metres of the highway boundary (measured from your inside edge of the footpath / boundary edge of the Land) to a height of not greater than one metre.

OR

(iii) Relocate the fence so that it is set back 2 metres from the boundary of the Land and to a height of not greater than 2 metres above ground level.



Following on from a site visit on the 9th July 2019, it was agreed that the fence would be reduced to 3'9" (1.1m) and the posts lowered accordingly. Due to the construction of the posts a time period of two months has been allowed. On completion of the works, the LPA will to withdraw the enforcement notice.

5.8 Development of land by Burgar Road, Tudworth Road Junction in Thorne

The LPA received a complaint that the site was being developed for residential purposes and that a static caravan had been brought onto the land together with steel shipping containers and portable cabins.

Historic aerial photographs indicate that the land originally had a single field shelter for ponies and was predominantly laid to grass. However, more recently a statutory undertaker undertook repairs to the canal bridge using their statutory powers. The LPA agreed the use of the field on the understanding that the portable cabins, service road and hardstanding were removed on completion of the remedial works. The statutory undertaker agreed with the appellant to leave the and hardstanding in place on completion, however the LPA were not aware of this.

The LPA were subsequently notified that the sub-contractors had left the site and that the owners had brought onto the land a static caravan, containers and other impedimenta.

The owner was advised to remove from the land the caravan, containers and portable cabin and internal road/hardcore compound however, despite trying to work with the owner, the aforementioned remained on the site resulting in the an enforcement notice being served. An appeal was made against the enforcement notice and the LPA attended site with the planning inspectorate on the 3rd July 2019. The Inspector upheld the Enforcement Notice with a few minor variations.

For a copy of the full appeal decision please refer to Appendix 2: **Appeal ref: APP/F4410/C/18/3207741** - Land adjacent to Burgar Road/Tudworth Road, Thorne, Doncaster DN8 5RB



Quarterly Enforcement Cases

Quarter 1	
Received Enforcement Cases	104
Total Cases Pending	77
Closed Enforcement Cases	63

Case Breakdown	
Unlawful Advertisements	12
Breach of Conditions	16
Unauthorised Change of Use	27
Unauthorised Works to Listed Building	0
Unauthorised Operational Development	44
Unauthorised Works to Protected Trees	5

Areas Where Breaches Take Place	
Adwick and Carcroft	4
Armthorpe	1
Balby South	0
Bentley	11
Bessacarr	2
Conisbrough	5
Edenthorpe and Kirk Sandall	9
Edlington and Warmsworth	3
Finningley	9
Hatfield	5
Hexthorpe and Balby North	1
Mexborough	4
Norton and Askern	11
Roman Ridge	4
Rossington and Bawtry	6
Sprotbrough	2
Stainforth and Barnby Dun	2
Thorne and Moorends	6
Tickhill and Wadworth	8
Town	7
Wheatley Hills and Intake	4

Formal Enforcement Action	
Notices Issued	3
Prosecutions	4 with outcomes this month

Report Prepared By:
 Scott Forbes
 Environmental Protection Manager.

APPENDIX 1



Appeal Decision

Site visit made on 3 July 2019

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal ref: APP/F4410/C/19/3222999

**Blaxton Quarry, Land off Thorne Road, Blaxton, Doncaster, South
Yorkshire DN9 3AX**

- The appeal is made by Mr Nadeem Shah under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Doncaster Metropolitan Borough Council.
- The notice was issued on 21 January 2019; reference No. 19/00001/ENFNOT.
- The breach of planning control was: Without planning permission, change of use of the Land from countryside/disused quarry to a motocross and outdoor activity site including the development and formation of fishing 'piers or pegs' along with engineering works the creation, alteration and removal of earthen 'bunds' of various sizes and the setting out of both formal and off-road motocross/motor sport race tracks, together with its associated activities of the siting/use of a residential caravan and hot/cold food sales and HGV container storage, all as part of the material change of use.
- The requirements of the notice are to:
 - (1) Permanently cease the use of the Land for the riding of motorcycles or motor sports activities (i.e. bike, quad or other vehicle) other than for non-leisure use of security/site inspection on the OS defined and marked trackways of Levels Lane/Nan-Sampson Bank)
 - (2) Permanently cease any further engineering operations on the Land for the alteration, creation or removal of earthen (or other materials) bunds/embankments
 - (3) Permanently remove all HGVs, storage containers and caravans from the Land
 - (4) Permanently remove from the Land any track markers, bollards, traffic cones or other implements used to define motocross/motor sports tracks
 - (5) Cease the use of the Land for fishing, boat use activities and for hot and cold food sales
- The period for compliance with the requirements is 28 days.
- The appeal was made on grounds (c) and (e) as set out in the amended Act.

Summary of decision: The enforcement notice is upheld

Appeal site

1. The appeal site is an extensive 123.5ha area of mostly overgrown former quarry and arable land just to the north-east of the small settlement of Blaxton. Access is obtained from Kettering Road to the west along a roadway, Levels Lane, that is normally gated and locked. There are several large lakes at the

northern end of the land. Apart from a level area of hardstanding near the access at the western side, much of the site has an undulating predominantly sandy surface that has been crossed by numerous off-road motorcycle tracks. Earth bunds have been built, particularly on the southern side of the lakes. Other earthworks have been carried out, seemingly in part to provide tracks suitable for motocross activities. An arable field at the western side of the site is let to another party.

Enforcement notice – validity

2. The Appellant, Mr Nadeem Shah, said the enforcement notice plan's red line showed a vast area of land. There was no specific reference to exactly where the alleged motocross activities were taking place. The red line covered areas where no breach as stated in the notice had ever taken place. The notice was defective. It was invalid.
3. The Courts use the concept of the planning unit to determine the area of land to be considered when identifying the primary use of land, (and its ancillary uses), and whether any material change of use has occurred. In the case of *William Newland v SSCLG and Waverley BC QBD 22 December 2008*, HHJ Hickinbottom said the identification of the relevant planning unit was quintessentially a matter of fact and degree for the primary decision maker, (also see *Johnstone v Secretary of State for the Environment (1974) 28 P&CR 424* and *Church Commissioners for England v Secretary of State for the Environment [1995] 2 PLR 99*).
4. In the case of *Burdle v SSE [1972] 1 WLR 1207*, Bridge J. determined that there were three criteria to determine the planning unit:
 1. When occupier uses for single main purpose to which secondary activities are incidental, the unit of occupation to be taken as the planning unit.
 2. When a variety of activities none incidental or ancillary to the other, again consider the entire unit.
 3. When two or more areas occupied for substantially different purposes. Each area so used is a separate planning unit.

Bridge J. said: "*It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.*"

5. In the case of *Thomas David (Porthcawl) Ltd and others v Penybont Rural District Council and others [1972] 3 All ER 1092 5 Oct 1972*, the Appellants had complained that an enforcement notice had been served on an entire plot of land when the activities complained of, sand and gravel extraction, had occurred on only two smaller parts. There it was held that the site should be looked at as a whole.
6. It is clear from the above decisions that, where there is no evident demarcation between activities or works, the unit of occupation is generally to be taken as the planning unit, even where there may be a nil use on part of the land. But particularly where access roads and paths are shared and there is some flexibility in the location of activities, there cannot be a sensible separation of the site into different planning units. In my view, it was entirely appropriate for

the Council to have identified the entire enforcement notice red line site as the planning unit where a mixture of activities and engineering operations have taken place.

7. The Appellant's assertion that the enforcement notice here is a nullity is incorrect. A notice is only a nullity if it is invalid on its face, *R v Wicks [1996] JPL (CA)*, that is, for example, if it failed to comply with the requirement in s.173(3) of the Act to specify the steps, or specify a period for compliance, (s.173(9)). Neither is the notice invalid; that is, containing an error that may or may not be correctable. I consider that the notice before me appropriately identifies the planning unit and correctly describes the mixture of uses. It is a valid notice. The notice could have included an agricultural use as part of the mix of uses. But the notice does not attack that lawful use. Its omission from the allegation is not fatal to the notice.

The appeal on ground (e)

8. An appeal on ground (e) asserts that the enforcement notice was not properly served. Pointing out the alleged flaws in the service of the notice, it was said that Mr N Shah was a director of TLB Properties who were managing agents of the site. Mr Imran Shah did not live at Gatewood Farm. The Yorkshire Enduro Company was not registered at Cavendish Court, South Parade, Doncaster. There was no such commercial concern at Cavendish Court. It was also said the access serving the quarry was shared with an adjacent landowner who appeared not to have been served with notice despite having an interest in the land.
9. The Council responded by setting out in considerable detail their efforts to find and serve those with an interest in the land. They said information from the Land Registry showed the land to be owned by a company registered in Jersey. Legislation there had no requirement to list directors and details of ownership. The Appellant, Mr Nadeem Shah, was the only person to have contacted the Council in relation to the enforcement notice. The Council had sent a copy of the enforcement notice to the adjacent landowner for information purposes only. They considered him to be not involved in the breach.
10. In my view, the Council did all that was required of them to find the persons and parties with an interest in the land prior to issuing the enforcement notice. They were entitled to rely upon a Land Registry search to identify all those with an interest. The Appellant produced no evidence of any person or party that had an interest in the land who had not been served with the enforcement notice nor, if so, how they might have been disadvantaged by any omission in service of the notice. Mr Nadeem Shah appealed against the notice, submitting grounds of appeal. He also produced an appeal statement. No evidence was brought forward to show that any injustice had been caused to any person or party by any possible failure to serve the enforcement notice correctly. The appeal on ground (e) fails.

The appeal on ground (c)

11. An appeal on ground (c) asserts that there has not been a breach of planning control. It was Mr Shah's case that the motocross activity had taken place on no more than 14 days each year for the last 4 years. Event paraphernalia were

removed after each event. The occasional motocross activity was therefore permitted development.

12. The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), Part 4 at Class B - temporary use of land, grants planning permission for the use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of – (b) motor car and motorcycle racing including trials of speed, and practising for those activities and the provision on the land of any moveable structure for the purposes of the permitted use.
13. In the case of *Ramsey v SSETR & Suffolk Coastal DC [2002] CA JPL 1123*, it was determined that where agricultural land was used for vehicular leisure purposes, even if permanent physical changes take place on land to facilitate a temporary use, provided that they do not prevent the normal permanent use from continuing for most of the year, and it does so continue, there is no reason why the permitted development rights under the Order at Class B should not be available.
14. In this instance, arguments around the reversion to "the normal permanent use" do little to resolve the question of the lawfulness or otherwise of the claimed temporary use. Most of the land used for motocross activities has taken place on former quarry land, much of which appeared to have little topsoil cover and is now overgrown with trees. That land looked to me to be of little or no use for agricultural purposes, said by the Council to be the lawful use of the land.
15. Any reliance by the Council on the apparent permanence of the engineering works to construct, for example, motorcycle tracks to show an intention to develop a permanent motocross facility, is not necessarily, of itself, decisive as to lawfulness. However, in *Ramsey*, the physical works would only be acceptable to facilitate a temporary use. Mr Imran Shah's, (Mr Nadeem Shah's son), own LinkedIn page says that; *"Since early 2016 have been developing a problem site into a purpose built motorbike enduro circuit. We have recently completed the first stage of works to the site and have been operating for almost 2 years."* He also said: *"A project I've been running over the last year converting a disused quarry into an outdoor pursuits centre... Three lakes enduro, just the start."* Also, a Change.org – petition, (now closed), to keep Three Lakes Enduro open, (the name of the appeal site's motocross facility), had 2,735 signatories, suggesting a permanent, not a temporary, motocross use.
16. The Three Lakes Enduro Facebook page contains reviews of the motocross facility from 47 persons. An entry from the operators in 2017 said: *"We are trialling Wednesday and Thursday afternoon/evenings so which ever day you can make it this week pop down and ride and let us know what you think. This is just a trial we will pick the most suitable day to add to future weeks."* That does not suggest a temporary facility available for no more than 14 days in any year.
17. Even if the use of the appeal site for motocross had been limited to the 14 days a year set out in the Order, the physical alterations to the land to provide the various tracks and courses within the land strongly support the Appellant's stated intention to develop a permanent facility. In *Ramsey*, the Judge said, *"It seems to me that as a matter of law physical changes that have been made to*

the land are capable of being a relevant consideration in the decision-makers assessment of the character of the proposed use. Is not simply limited to looking at duration in every case."

18. In my view, the evidence shows a definite intention to continue to develop the Three Lakes site. Quotes on line from the change.org petition by Imran Shah demonstrate that intention - such as: "... *we have managed to create a track so good people from every corner of the country have had to visit us.*", and "*We will not give up on THREE LAKES ENDURO if you can help us here we promise to provide you the best safest and most diverse place to ride your bikes in the UK.*".
19. There was little emphasis by either party on the fishing use by members of the public of the large lakes at the northern end of the appeal land. Mr Shah said the lakes had been used for over 30 years for fishing by appointment only. An application for a certificate of lawfulness to that effect was to be made. The Council merely said such an application could be made. However, it would appear that Mr Shah considers the fishing use activity is carried out at a level that could justify issue of a certificate of lawfulness. In the meantime, the fishing use of the land as part of the mix of unlawful uses persists, even though it may be at a low level.
20. I consider that the use of the appeal site for motocross and fishing activities and the associated facilitating operational development went well beyond that which would have been permitted by the Order. The appeal on ground (c) fails.

FORMAL DECISION

21. The enforcement notice is upheld.

John Whalley

INSPECTOR

APPENDIX 2



The Planning Inspectorate

Appeal Decision

Site visit made on 3 July 2019

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2019

Appeal ref: APP/F4410/C/18/3207741

Land adjacent to Burgar Road/Tudworth Road, Thorne, Doncaster DN8 5RB

- The appeal is made by Miss Jodie Martin under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Doncaster Metropolitan Borough Council.
- The notice was issued on 26 July 2018; reference No. 18/00021/ENFNOT.
- The breach of planning control was: Without planning permission:
 - (i) the change of use of the Land from countryside to a mixed use of domestic and storage use by the siting of a mobile home, shipping/van bodies, storage containers, storage of vehicles, horse boxes and the siting of a portable office unit.
 - (ii) the unauthorised engineering operations including the formation of an internal roadway and a hardstanding compound area.
- The requirements of the notice are to:
 - (i) Cease the residential occupancy of the mobile home;
 - (ii) Remove the mobile home;
 - (iii) Remove the office unit, storage containers, vehicle box bodies, vehicles, and horse transporters and all other domestic impedimenta;
 - (iv) Remove the internal roadway and hardcore compound;
 - (v) Restore the area where the internal roadway and hardcore compound was located to countryside by re-seeding with grass or wild meadow seed mix within an appropriate period in the planting season October 2018 - March 2019.
 - (vi) For one year following reseeding date, allow the area to be restored to a semi-natural condition by:
 - a. Not applying any topsoil, non-native wildflower/grass seed or fertilisers;
 - b. Not allowed grazing in the first spring and summer; and
 - c. Control agricultural weeds (creeping thistles, broad-leaved and curled dock and common ragwort) through up-rooting, cutting, or (if required) knapsack spraying or weed-wiping (in accordance with Natural England advice <https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants#spray-plants-with-chemicals>)
 - d. Allowing the regrowth by securing the area from grazing for one year from the date of re-seeding.
- The periods for compliance with the requirements are:
 - Requirement (i) – within one month of the effective date of the notice.
 - Requirement (ii) – within one month of the effective date of the notice.
 - Requirement (iii) – within 3 months of the effective date of the notice.
 - Requirement (iv) – within 3 months of the effective date of the notice.
 - Requirement (v) – within 9 months of the effective date of the notice.

- The appeal was made on grounds (a) and (b) as set out in the amended Act. As the fees payable for the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended were not paid, the appeal on ground (a) falls away and the application is not considered.

Summary of decision: The enforcement notice is varied and upheld

Appeal site

1. The appeal site is a 0.62ha narrow strip of land immediately to the south of the railway, a short way west of Thorne South station. Some of the land is covered by a stone hardcore surface and an access track. At the time of the appeal visit, there was a mobile home and storage units on the land.

The appeal on ground (b)

2. An appeal on ground (b) asserts that the alleged breach of planning control has not, as a matter of fact, occurred. In an appeal on legal grounds, as here, the burden of proof to show there has not been a breach of planning control lies with the appellant. The case of *Nelsovil v MHLG [1962] 1 WLR 404* is authority for that position.
3. The first part of the notice's allegation states: "(i) the change of use to a mixed use of domestic and storage use by the siting of a mobile home, shipping/van bodies, storage containers, storage of vehicles, horse boxes and the siting of a portable office unit.". It is not possible to know whether the stationing of the mobile home amounts to a material change of use without knowing the purpose for which it was used, and whether that purpose fitted in with the existing use of the land, (*Restormel BC v SSE and Rabey [1982] JPL 785*). Here, use of the term "mixed use of domestic and storage use" as applied to the mobile home lacks precision.
4. The notice's first requirement clarifies matters. From that, it may be seen that the Council concluded the mobile home was being used for residential purposes. However, Miss Jodie Martin, the Appellant, said the caravan had not been occupied residentially. No services, such as water or electricity were connected. Nor was the mobile home plumbed in to a drainage system. It was used for storage, not lived in. That would appear to be conceded by a Council Officer's site visit report that said: "*the caravan did not appear to be occupied, no water or gas supply was present and having looked through the windows of the caravan, it did not indicate that the caravan was being used for residential purposes*". The Council produced no evidence of a residential use of the caravan, (described as a mobile home in the notice), on the appeal site. The residential use of the mobile home as part of a mixed storage use of the land was not demonstrated. I will delete requirement 5(i) from the enforcement notice.
5. Miss Martin's said some of the stone and hardcore surfacing had been placed on the site in 2002. That could be part of an implied ground (d) appeal, that in the case of operational development, it would be immune from enforcement action after a period of 4 years following substantial completion of works, (s.171B(i) of the Act). The Council had said aerial photographs taken at intervals over the period 2002 to 2015 showed the site to be undeveloped. But this is not a matter before me and I cannot deal with it in the context of a ground (b)

appeal. If Miss Martin considers there is evidence available to support her view, it could be the subject of an application to the Council for a certificate of lawfulness under section 191(1)(b) of the Act.

6. My conclusion is that no evidence of a residential use of the mobile home was produced. The appeal on ground (b) therefore succeeds for that part of the alleged breach of planning control. But the appeal fails in respect of the storage uses and the engineering operations. The enforcement notice is varied by the deletion of that part of the allegation dealing with the residential use and the deletion of the requirement 5(i). I also delete reference to "countryside" in the first part of the allegation. In my view, "countryside" does not describe a use of land. Also, an enforcement notice does not need to set out a previous lawful use. That variation also helpfully removes the word "domestic". If it had been appropriate, "residential" would better describe such use. Finally, the use of a specified date for compliance is inappropriate, as it may not allow for a suitable period for compliance in the event of an appeal against the notice. I will substitute a period of time, reflecting the Council's intention that re-seeding takes place in the succeeding planting season.

FORMAL DECISION

7. The enforcement notice is varied by the deletion of the words "from countryside to a mixed use of domestic and" in lines 1 and 2 in paragraph 3(i) on page 1 of the notice and the substitution therefor of the words "to a". The enforcement notice is also varied by the deletion of the words "residential occupancy" in line 5(i) on page 2 of the notice and the substitution therefor of the words "the storage use". The enforcement notice is also varied by the deletion of the words "planting season October 2018 – March 2019" in lines 3 and 4 in paragraph 5(v) on page 2 of the notice and the substitution therefor of the words "next planting season following the restoration of the former internal road way and hardcore compound". Subject to the foregoing, the varied enforcement notice is upheld.

John Whalley

INSPECTOR