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Case Number	21/00234/FUL (Formerly PP-09354434)
Application Type	Full Planning Application
Proposal	Erection of a retail unit (Class E(a)), gym (Class E(d)), 2 storage and distribution units (Class B8), 1 storage and distribution unit with outside storage and racking (Class B8), 2 drive thru restaurants (Class E(b/Sui Generis)), 1 builders merchant (Sui Generis) to include display, sale and storage of building timber and plumbing supplies, plant and tool hire, including outside display and storage along with storage racking, ancillary kitchen joinery showroom, 1 vehicle maintenance, repair and MOT unit (Class B2) and 2 substations including provision of car parking and junction improvements to Penistone Road and Herries Road, access onto Herries Road/Herries Road South, servicing, landscaping, pedestrian access and associated on and off site works (resubmission of application 19/00037/FUL) (Amended Description)
Location	Land At Junction With Herries Road, Herries Road South And Penistone Road North Sheffield S6 1QE
Date Received	19/01/2021
Team	West and North
Applicant/Agent	DLP Planning Ltd
Recommendation	Grant Conditionally

## **Time limit for Commencement of Development**

1. The development shall be begun not later than the expiration of three years from the date of this decision.

Reason: In order to comply with the requirements of the Town and Country Planning Act.

## **Approved/Refused Plan(s)**

2. The development must be carried out in complete accordance with the following approved documents:

13622-P1-098\_Site Location Plan  
 13622-P1-100F Proposed Site Plan  
 13622-P1-101B Proposed Site Sections  
 13622-P1-102A Proposed Demolition Plan  
 13622-P1-103A Proposed Retail Terrace GA Plan  
 13622-P1-104A Proposed Retail Terrace Mezzanine Plan  
 13622-P1-105A Proposed Retail Terrace Roof Plan  
 13622-P1-106A Proposed Retail Terrace Elevations  
 13622-P1-107A Proposed Unit 3 GA Plans and Elevations  
 13622-P1-108A Proposed Unit 4  
 13622-P1-109C Proposed Unit 05 GA Plan  
 13622-P1-110C Proposed Unit 05 Elevations  
 13622-P1-111A Proposed Unit 06 GA Plan  
 13622-P1-112A Proposed Unit 06 Elevations  
 13622-P1-113C Proposed Unit 07  
 13622-P1-114A Proposed Unit 08-09 GA Plans  
 13622-P1-115A Proposed Unit 08-09 Elevations  
 13622-P1-116B Boundary Treatment Plan  
 13622-P1-117B Boundary Treatment and Fencing Details  
 13622-P1-118B Streetscene Elevations  
 13622-P1-119B\_Proposed Street Sections  
 13622-P1-120B Proposed Detail Sections  
 13622-P1-121A\_Proposed Green Wall Details  
 13622-P1-122A Proposed Unit 09 Bin Store Details  
 13622-P1-123 Proposed Substations  
 13622-[P1]-125 Proposed Site Plan EV Layout  
 V13622\_L01J - Landscape Masterplan\_A1  
 V13622\_L02J - Landscape Plan 1 of 2\_A0  
 V13622\_L03J - Landscape Plan 2 of 2\_A0  
 200204-0000-001- General Arrangement Penistone Road (Rev E)  
 200204-0000-002- General Arrangement - Rev B  
 200204-0000-003- General Arrangement Herries Road North Junction - Rev B  
 200204-0000-004- General Arrangement Herries Road South Junction - Rev B  
 SCP\_18445\_F15 Rev F - Required Land Outside of the Boundary Line  
 SCP\_18445\_F18 - Cycle Priority Crossing  
 13622-[P1]-126 - Proposed Cycle hoop locations

Reason: In order to define the permission.

**Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)**

3. Prior to the construction of any phase of the development commencing, a detailed Inclusive Employment and Development Plan for that phase, designed to maximise opportunities for employment and training from the

construction phase of the development, shall have been developed collaboratively with Talent Sheffield and submitted to and approved in writing by the Local Planning Authority. The Plan shall include a detailed Implementation Schedule, with provision to review and report back on progress achieved, via Talent Sheffield, to the Local Planning Authority. Thereafter the Plan shall be implemented in accordance with the approved details.

Reason: In the interests of maximising the economic and social benefits for Sheffield from the construction of the development

4. No development shall commence until details of measures to facilitate the provision of gigabit-capable full fibre broadband within the development, including a timescale for implementation, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details/timetable thereafter.

Reason: To ensure that all new Major developments provide connectivity to the fastest technically available Broadband network in line with Paragraph 114 of the National Planning Policy Framework.

5. No development shall commence unless the measures to protect the trees, shrubs, and hedges (within and adjoining the site boundary) to be retained are provided in accordance with Tree Protection Plan Dwg No: PRN06 rev A. Protection of trees shall be in accordance with BS 5837, 2012 (or its replacement) and the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way. The protection measures shall not be removed until the completion of the development.

Reason: In the interests of protecting the identified trees on site. It is essential that this condition is complied with before any other works on site commence given that damage to trees is irreversible.

6. No development shall commence until full details of the proposed surface water drainage design, including calculations and appropriate model results, have been submitted to and approved by the Local Planning Authority. This shall include the arrangements and details for surface water infrastructure management for the life time of the development. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. The surface water drainage scheme and its management shall be implemented in accordance with the approved details. No part of a phase shall be brought into use until the drainage works approved for that part have been completed.

Reason: In the interests of sustainable development and given that drainage

works are one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences in order to ensure that the proposed drainage system will be fit for purpose.

7. No development shall commence until detailed proposals for surface water disposal, including calculations to demonstrate a 30% reduction compared to the existing peak flow based on a 1 in 1 year rainfall event have been submitted to and approved in writing by the Local Planning Authority. This will require the existing discharge arrangements, which are to be utilised, to be proven and alternative more favourable discharge routes, according to the hierarchy, to be discounted. Otherwise greenfield rates (QBar) will apply.

An additional allowance shall be included for climate change effects for the lifetime of the development. Storage shall be provided for the minimum 30 year return period storm with the 100 year return period storm plus climate change retained within the site boundary. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of sustainable development and given that drainage works are one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences in order to ensure that the proposed drainage system will be fit for purpose.

8. No demolition and/or construction works shall be carried out unless the equipment approved as part of this application 'Wheel Wash Facilities Specification' (scanned 19th January 2021) for the effective cleaning of the wheels and bodies of vehicles leaving the site so as to prevent the depositing of mud and waste on the highway is provided.

Reason: In the interests of protecting the free and safe flow of traffic on the public highway, it is essential that this condition is complied with before any works on site commence.

9. Immediately (No later than 1 month) prior to the commencement of the development, which includes site clearance or preparatory works, a repeat badger survey shall have been undertaken in accordance with the recommendations of Weddle Landscape Design Ecological Addendum dated December 2020, and submitted to and approved in writing by the Local Planning Authority.

Should evidence of badger activity be detected during the survey, no development shall commence until best practice measures to protect setts and associated habitat have been agreed in writing by the Local Planning Authority and any required Natural England licenses or permits have been secured. The development shall only then proceed in accordance with the approved details.

Reason: In the interests of biodiversity and to mitigate the affects of the

development on protected species.

10. No development shall commence until the improvements (which expression shall include traffic control and cycle safety measures) to the highways listed below have either:
- a) been carried out; or
  - b) details have been submitted to and approved in writing by the Local Planning Authority of arrangements which have been entered into which will secure that such improvement works will be carried out before the development is brought into use.
- Highway Improvements:
- (i) Alterations to site access arrangements for vehicles and pedestrians broadly in accordance with submitted drawing numbers SCP/18445/F and SCP\_18445\_F18 (which will be subject to further detailed design), including the provision of pedestrian drop crossings and tactile paving to facilitate unhindered wheelchair mobility and (subject to a stage 2 road safety audit), will promote/prioritise cycle movements along the off-road cycle tracks.
  - (ii) Promotion (as necessary) of a Traffic Regulation Order (loading/waiting restrictions in the vicinity of the development site) and provision of associated road markings and signage, all subject to the usual formal procedures;
  - (iii) Provision (where possible) of a clear 4 metres wide shared footway/cycleway along the Penistone Road frontage (and associated signage/markings) all resurfaced;
  - (iv) Highway landscaping to the rear of the shared footway/cycleway along the Penistone Road frontage between Herries Road and Herries Road South (with a license for the developer to undertake maintenance);
  - (v) Accommodation works to street furniture and Statutory Undertakers equipment, including street lighting columns, moving them to the new rear of shared footway/cycleway;
  - (vi) Bus shelter upgrade/replacement to South Yorkshire Passenger Transport Executive specification on the Penistone Road frontage with kerb upstand and tactile paving to assist boarding/alighting
  - (vii) Retail Park direction signage on the local highway network.

Reason: To enable the above-mentioned highways to accommodate the increase in traffic, which, in the opinion of the Local Planning Authority, will be generated by the development, and in the interests of protecting the free and safe flow of traffic on the public highway it is essential that this condition is complied with before any works on site commence.

11. Prior to the improvement works indicated in the preceding condition being carried out, full details of these improvement works shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and the amenities of the locality.

**Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)**

12. The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved in writing by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.

Reason: In the interests of the visual amenities of the locality it is essential for these works to have been carried out before the use commences.

13. Prior to foundation works commencing on units 2, 3, 8 or 9 full details of the plant sward and a schedule for the long term maintenance of the green walls, shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the green walls shall be provided in the locations shown on the approved plans and in accordance with the approved planting and maintenance arrangements. The plants shall be maintained for a period of 5 years from the date of implementation and any failures within that period shall be replaced.

Reason: In the interests of biodiversity and the visual amenities of the area.

14. Before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority, full details of proposals for the inclusion of public art within the development shall have been submitted to and approved in writing by the Local Planning Authority. Such details shall then be implemented prior to the occupation of the development.

Reason: In order to satisfy the requirements of Policy BE12 of the Unitary Development Plan and to ensure that the quality of the built environment is enhanced.

15. The ingress and egress of vehicles engaged in the construction of the development is restricted to the access arrangements shown on Figure 1 - 'Site Accommodation and Logistics plan' contained in the approved Eastwoods and Partners Construction and Environmental Management Plan (CEMP) ref: AP/JEST/37384/022 rev C dated 10th August 2021.

Reason: In the interests of highway safety and the amenities of the locality.

16. Within 3 months of the commencement of development , the applicant shall submit for written approval by the Local Planning Authority a report giving details of the impact of light from the development on adjacent dwellings and the retained woodland. The report shall demonstrate that the lighting scheme is designed in accordance with The Institution of Lighting Professionals documents GN01: 2011 'Guidance Notes for the Reduction of Obtrusive Light', and PLG05: 2014 'The Brightness of Illuminated Advertisements'. The development shall be carried out and thereafter retained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property and ecology of the adjoining woodlands.

17. Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: In order to ensure an appropriate quality of development.

18. The submitted Travel Plan (SCP Framework Travel Plan dated May 2020) is approved and must be operated for the lifetime of the development. Any subsequent changes/modifications to the Travel Plan suggested by the developer or future occupants must have been first submitted to and approved in writing by the Local Planning Authority prior to implementation.

Reason: In the interests of delivering sustainable forms of transport, in accordance with the Unitary Development Plan for Sheffield and Core Strategy.

19. Cycle parking shall be provided in the locations shown on plan ref: 13622-[P1]-126 - proposed cycle hoop locations. Prior to the occupation of the development full details of the cycle shelters plus storage/changing/shower facilities for staff within the buildings hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. The cycle parking, shelters and storage/changing facilities shall be provided in accordance with the approved details prior to the occupation of the development and thereafter retained.

Reason: In the interests of delivering sustainable forms of transport, in accordance with the Unitary Development Plan for Sheffield, Core Strategy Policies and the NPPF.

20. Prior to above ground works commencing, arrangements shall have been entered into which enable the dedication of land required to accommodate capacity improvements at the junction of Herries Road South with the A61 (together with cycling infrastructure improvements) to the City Council from the land owner at no cost to the City Council, to occur if/when the highway improvement scheme is commenced. The land is identified in submitted drawing number SCP\_18445\_F15 Rev F.

Reason: In the interests of the future development of the area.

21. Prior to occupation, all vehicle and pedestrian areas within the site shall have been surfaced, sealed and drained in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory parking provision in the interests of traffic

safety and the amenities of the locality.

22. Before the development is brought into use, the car parking accommodation, the electric vehicle charging points and associated passive and active parking spaces, the internal vehicular circulation and pedestrian routes and the service yards shall all have been provided in accordance with the submitted plans, along with internal direction signage advising motorists of the correct turning manoeuvres upon re-joining the public highway. The approved works shall thereafter be retained/maintained for the sole purpose intended.

Reason: To ensure satisfactory parking provision and highway improvements in the interests of traffic safety and the amenities of the locality.

23. The development shall not be used unless details have been submitted to and approved in writing by the Local Planning Authority, showing how surface water will be prevented from spilling onto the public highway. Once agreed, the measures shall be put into place prior to the use of the development commencing and shall thereafter be retained.

Reason: In the interests of highway safety and the amenities of the locality it is essential for these works to have been carried out before the use commences.

24. The development shall not be used unless all redundant accesses have been permanently stopped up and reinstated to kerb and footway, and any associated changes to adjacent waiting restrictions that are considered necessary by the Local Highway Authority including any Traffic Regulation Orders are implemented. The means of vehicular access shall be restricted solely to those access points indicated in the approved plans.

Reason: In the interests of highway safety and the amenities of the locality it is essential for these works to have been carried out before the use commences.

25. Specifications of the electrical car charging points along with a schedule/timeframe for their installation and the provision of the active and passive electric vehicle parking spaces shown on drawing ref:13622-[P1]-125 shall have been submitted to and approved in writing by the Local Planning Authority within 3 months of the commencement of development.

The approved charging points and active and passive vehicle parking spaces shall then be provided in accordance with the approved details, and thereafter maintained and retained for the lifetime of the development.

Reason: To mitigate the effects of climate change.

26. Before any above ground works commence, or an alternative timeframe to be agreed in writing by the Local Planning Authority, full details of the



proposed public recycling facilities, which shall include the following elements:

- i) paper banks
- ii) containers for glass bottle
- iii) containers for plastic bottles and aluminium cans
- iv) textile bank
- v) details of signage within the site to such facilities

shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details before the relevant element of the development is brought into use and thereafter retained in accordance with the approved scheme.

Reason: In the interests of sustainable development.

27. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

28. No building or other obstruction including landscape features shall be located over or within 6 (six) metres either side of the centre line of the public water main i.e. a protected strip width of 12 (twelve) metres, that crosses the site. Furthermore, no trees or other landscaping features are to be planted within the restricted strip. If the required stand-off distance is to be achieved via diversion/closure or an agreed alternative scheme of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion/closure or relevant agreement has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

29. The measures identified in the approved Energytest Energy Statement dated 6/1/2021 to reduce/provide the energy needs of the completed development from decentralised and renewable/low carbon energy sources shall have been installed/incorporated into the relevant buildings before those buildings are occupied.

Before each of the buildings is occupied, or an alternative timescale to be agreed in writing with the Local Planning Authority, a report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed/incorporated

prior to occupation.

Thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.

Reason: In order to ensure that new development makes energy savings in the interests of mitigating the effects of climate change and given that such works could be one of the first elements of site infrastructure that must be installed it is essential that this condition is complied with before the development commences.

30. The development hereby approved shall be constructed to achieve a minimum rating of BREEAM 'very good' and before the development is occupied (or within an alternative timescale to be agreed) written confirmation from an Licensed BREEAM Assessor, demonstrating that BREEAM 'very good' has been achieved, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of mitigating the effects of climate change, in accordance with Sheffield Development Framework Core Strategy Policy CS64

31. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

32. The use of Units 04 and 07 (drive thru restaurants) shall not commence unless a scheme for the installation of equipment to control the emission of fumes and odours from the premises is submitted for written approval by the Local Planning Authority. These details shall include:

- a) Drawings showing the location of the external flue ducting and termination, which should include a low resistance cowl.
- b) Acoustic emissions data for the system.
- c) Details of any filters or other odour abatement equipment.
- d) Details of the systems required cleaning and maintenance schedule.

The use shall not commence until the approved equipment has been installed and is fully operational and shall thereafter be installed, operated, retained and maintained in accordance with the approved details.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property it is essential for these works to have been carried out before the use commences.

33. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

34. No loudspeakers be fixed externally nor directed to broadcast sound outdoors at any time. Any external intercom units used for the purpose of communicating food orders, or otherwise, shall be operated in such a manner so as to remain inaudible at the nearest off-site noise sensitive receptor facade at all times.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

35. Should the clearance of site vegetation, trees or buildings take place within the bird nesting season (March to August inclusive) a pre site clearance check shall be carried out by a suitably qualified ecologist to establish the presence of nesting birds. If active bird nests are present clearance works should only proceed once all chicks have fledged.

Reason: In order to ensure that nesting birds are not adversely affected by the development.

36. Buildings 2, 3 and 7 identified in Steven Whitcher's Preliminary Bat Roost Assessment ref: SK 33526-90722 revision 2 dated 19th February 2021 shall not be demolished until the further bat surveys specified in section 5. 'Recommendations' of the above report have been carried out, and the findings have been submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be carried out in accordance with the recommendations of the further bat surveys.

Reason: In the interests of protected species.

37. Within 3 months of the commencement of development full details of the ecological mitigation measures identified in Weddle Landscape Design Ecological Addendum dated December 2020 shall have been submitted to an approved in writing by the Local Planning Authority including:

1, Bird and bat boxes, with some integrated into buildings;

2, Details of permeable site fencing to allow badgers and other small mammals to access the site;

3, Provision of 1no. ACO Wildlife Refuge and woodpile habitat;

The approved ecological mitigation measures shall have been carried out/installed prior to the first occupation of the development or within an alternative timescale to be agreed in writing with the Local Planning Authority.

Reason: In the interests of biodiversity

38. The approved landscape works and the ecological mitigation measures required by conditions 12 and 37 shall be managed and maintained in accordance with Weddle Landscape and Design 'Landscape and Ecological Management and Maintenance Plan' (LEMP) dated May 2020.

Reason: In the interests of biodiversity and the long term management and maintenance of ecological and landscape features.

#### **Other Compliance Conditions**

39. Commercial deliveries to and collections from each of the units hereby permitted shall be carried out only between the hours of 0600 to 2300 on Mondays to Saturdays and between the hours of 0800 to 2200 on Sundays and Public Holidays.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

40. No vehicular on-site movements of stock, goods, waste or other materials shall take place in the open air, and no use of audible alarms, or other warning systems shall take place at any of the units hereby permitted outside the hours of 0600 to 2300 on Mondays to Saturdays, or the hours of 0800 to 2200 on Sundays and Public Holidays.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

41. All vehicle servicing, maintenance and repair associated with the vehicle repair and maintenance unit (use class B2) shall be carried out within the building, as approved in writing by the Local Planning Authority. No repair or maintenance activities shall be carried out in the open air at any time.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

42. Prior to being discharged into any watercourse, surface water sewer or soakaway system all surface water drainage from parking areas and

hardstandings shall be passed through a petrol/oil and grit interceptor/separator designed and constructed in accordance with details to be approved in writing by the Local Planning Authority.

Reason: Prevent pollution of the water environment.

43. All site clearance, demolition, construction and other enabling engineering or preparatory works shall at all times be carried out in accordance with the recommendations of the approved Eastwoods and Partners Construction and Environmental Management Plan (CEMP) ref: AP/JEST/37384/022 rev C dated the 10th August (scanned 20th August 2021) in relation to noise, vibration, dust, air quality and pollution control measures.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

44. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy (Eastwood & Partners ref. 37834-019; 30/09/2020). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order to ensure that any contamination of the land is properly dealt with.

45. The cumulative total of gross internal floorspace of units on the application site whose use is primarily for food retail purposes within Use Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 or any statutory instrument revoking and re-enacting that Order shall not exceed 1,899 sq metres.

Reason: In the interests of the vitality and viability of nearby District and Local Shopping Centres.

46. Notwithstanding the terms of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 or any statutory instrument revoking and re-enacting that Order, units 1 (food retail), Unit 2 (gym), and Units 4 and 7 (drive thru restaurant) shall be used solely for the use hereby permitted and shall not be used for any other purpose within Class E.

Reason: In the interests of the vitality and viability of the Hillsborough District Centre and nearby local shopping centres.

47. Unit 1 (food retail use class E) shall not at any time be split or sub divided

into smaller units.

Reason: In the interests of the vitality and viability of the Hillsborough District Centre and nearby local shopping centres.

48. No goods or materials on any kind shall be stored within the yards of any units above a height of 5.5 metres above ground level.

Reason: In the interests of the visual amenities of the locality

49. Surface water and foul drainage shall drain to separate systems.

Reason: To ensure satisfactory drainage arrangements.

50. The development shall be carried out in accordance with the recommendations contained in Section 2 of the Flood Risk Assessment (ref: 37834 006) dated 10th August 2021 prepared by Eastwood and Partners.

Reason: In the interest of mitigating flood risk.

Attention is Drawn to the Following Directives:

1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.
2. Water Supply
  - 1) Previous submissions have resulted in protracted discussions at the time in regards to the construction and piling methods / mains proximity to buildings (unit's 2&3). These have been documented and agreed under separate consultation with us (reference al '37843 main REV A' sketch and email chain also documented). In addition, the easement is shown to cross the site with the nearest point of concern where the main CL is closer than 6 metres away from nearest building. This has been documented and agreed with YW (reference 37843 Rev A (unit 2&3)).

NOTE: Trees should be planted within the agreed easement strip. Root barriers must be used to stop root encroachment into easement.

2) YW have assessed a water design layout for the site which was approved under a water application submission (also under separate consultation).

3. Notes For The Developer:
  - i) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email:

technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements;

ii) Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network;

iii) Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies, bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence; and

iv) The developer is required to consult with Yorkshire Water's Trade Effluent team (telephone 03451 242424) on any proposal to discharge trade effluent to the public sewer network.

4. Waste Water

1) Yorkshire Water has no objection to the submitted drawing 37834/004 revision E, dated 08.01.2021, namely:

- a) the proposed separate systems of drainage on site and off site;
- b) the proposed amount of domestic foul water to be discharged to the public combined sewer network; and
- c) the proposed point(s) of discharge of foul to the respective public sewers (subject to CCTV survey indicating existing points of connection).

In addition, the submitted drawing shows surface water proposed to be drained to the culverted watercourse crossing the site, which we fully endorse. The developer is strongly advised to seek advice/comments from the Environment Agency/Land Drainage Authority/Internal Drainage Board with regard to surface water disposal from the site. The landowners consent will be required for the construction of a new outfall structure.

As surface water from the site is not proposed to discharge to the public sewer network, no assessment of the capacity of the public sewers to receive surface water has been undertaken. Should the surface water disposal proposals change, further consultation with Yorkshire Water will be required.

5. Before commencement of the development, and upon completion, you will be required to carry out a dilapidation survey of the highways adjoining the site with the Highway Authority. Any deterioration in the condition of the highway attributable to the construction works will need to be rectified.

To arrange the dilapidation survey, you should contact:

Highway Co-Ordination

Telephone: 0114 273 6677  
Email: highways@sheffield.gov.uk

6. Plant and equipment shall be designed to ensure that the total L<sub>A</sub>r plant noise rating level (i.e. total plant noise L<sub>A</sub>eq plus any character correction for tonality, impulsive noise, etc.) does not exceed the LA90 background sound level at any time when measured at positions on the site boundary adjacent to any noise sensitive use.
7. For larger commercial kitchens or cooking types where odour and noise risk is higher, reference should be made to the updated guidance document; Control of odour and noise from commercial kitchen exhaust systems (EMAQ; 05/09/2018). Appendix 2 of the document provides guidance on the information required to support a planning application for a commercial kitchen.
8. The applicant is advised that in order to discharge the above condition relating to gigabit-capable full fibre broadband the following should be provided:
  - A contract or invoice for the installation of the physical infrastructure and the connection to gigabit-capable full fibre broadband.
  - Confirmation of the speed that will be achieved by the gigabit-capable full fibre broadband infrastructure, from the network operator.
  - Relevant plans showing the location/detail of the measures.

For more guidance with respect to addressing this requirement please see the Guidance Note on <https://www.sheffield.gov.uk/content/dam/sheffield/docs/documents-not-in-site-structure/new-build-developer-guidance.pdf> and/or contact [hello@superfastsouthyorkshire.co.uk](mailto:hello@superfastsouthyorkshire.co.uk)

9. The applicant is advised that 'Talent Sheffield' is a Sheffield City Council initiative delivered through the Invest Sheffield and Opportunity Sheffield teams, to ensure that investors and developers in the City receive the support required to meet the commitments in the Inclusive Employment and Development Plan and deliver the maximum possible benefits to Sheffield people and its communities.
10. You are required, as part of this development, to carry out works within the public highway. You must not start any of this work until you have received formal permission under the Highways Act 1980 in the form of an S278 Agreement. Highway Authority and Inspection fees will be payable and a Bond of Surety required as part of the S278 Agreement.

You should contact the S278 Officer for details of how to progress the S278 Agreement:



Mr J Burdett  
Highways Development Management  
Highways Maintenance Division  
Howden House, 1 Union Street  
Sheffield  
S1 2SH

Tel: (0114) 273 6349  
Email: james.burdett@sheffield.gov.uk

11. Before commencement of the development, and upon completion, you will be required to carry out a dilapidation survey of the highways adjoining the site with the Highway Authority. Any deterioration in the condition of the highway attributable to the construction works will need to be rectified.

To arrange the dilapidation survey, you should contact:

Highway Co-Ordination

Telephone: 0114 273 6677  
Email: highways@sheffield.gov.uk

12. Where highway schemes require developers to dedicate land within their control for adoption as public highway an agreement under Section 38 of the Highways Act 1980 is normally required.

To ensure that the road and/or footpaths on this development are constructed in accordance with the approved plans and specifications, the work will be inspected by representatives of the City Council. An inspection fee will be payable on commencement of the works. The fee is based on the rates used by the City Council, under the Advance Payments Code of the Highways Act 1980.

If you require any further information please contact:

Highway Adoptions  
Highways Maintenance Division  
Howden House, 1 Union Street  
Sheffield  
S1 2SH

Email: highwayadoptions@sheffield.gov.uk

13. As the proposed development abuts the public highway you are advised to contact the Highways Co-ordination Group prior to commencing works:

Telephone: 0114 273 6677  
Email: highways@sheffield.gov.uk

They will be able to advise you of any pre-commencement condition

surveys, permits, permissions or licences you may require in order to carry out your works.

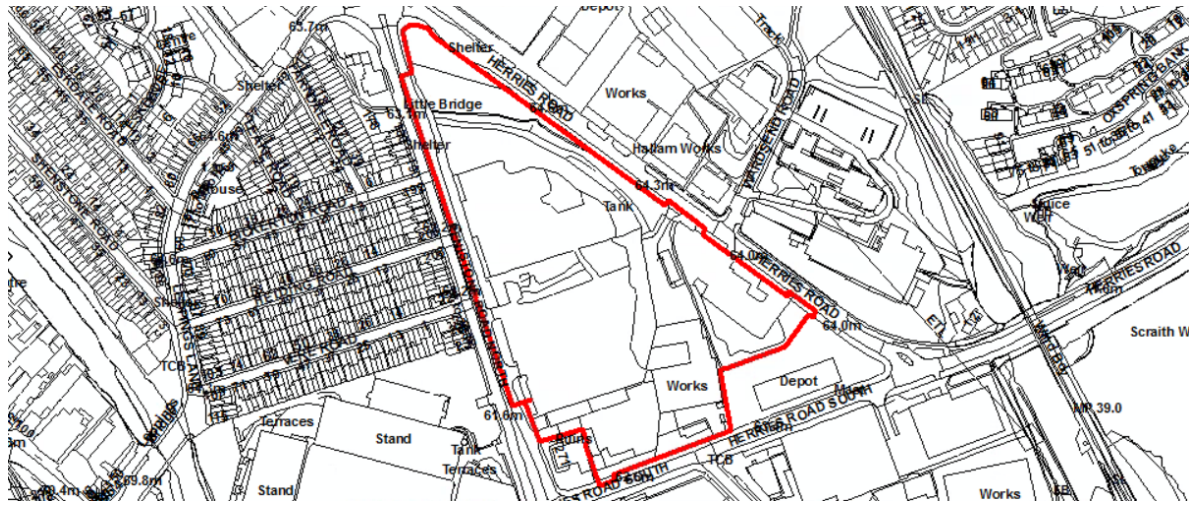
14. By law, this development requires the allocation of official, registered address(es) by the Council's Street Naming and Numbering Officer. Please refer to the Street Naming and Numbering Guidelines on the Council website here:

<https://www.sheffield.gov.uk/content/sheffield/home/roads-pavements/address-management.html>

The guidance document on the website includes details of how to apply, and what information we require. For further help and advice please ring 0114 2736127 or email [snn@sheffield.gov.uk](mailto:snn@sheffield.gov.uk)

Please be aware that failure to apply for addresses at the commencement of the works will result in the refusal of statutory undertakers to lay/connect services, delays in finding the premises in the event of an emergency and legal difficulties when selling or letting the properties.

## Site Location



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## LOCATION AND PROPOSAL

This application relates to a 4.9-hectare site bound by Penistone Road, Herries Road and Herries Road South. The site mostly comprises of hard standing, some of which has been used on an occasional and temporary basis for 'match day' parking for Sheffield Wednesday and other events. Approximately 3,722m<sup>2</sup> of gross internal floor space is contained in the 5 existing commercial buildings on site, 4 of which are currently vacant.

An area of protected trees (TPO No: 808/157) occupies the northern corner of the site. A former vehicle repair premises on the corner of Penistone Road/Herries Road South (currently vacant), and a timber yard on Herries Road South/Herries Road (occupied) are excluded from the application site.

A watercourse (part open, part culverted) is located within the site. It runs from the northwest, across to the eastern side of the site. It is then piped southwards across the site and under Herries Road South.

The locality is predominantly mixed industrial/commercial in character. Residential properties and the Hillsborough Stadium are located on the western side of Penistone Road, opposite the site.

Planning consent was granted on this site in January 2020 (19/00037/FUL) for a mixed-use scheme involving the demolition of all existing buildings on site and the erection of 14 commercial units including:

- 3 retail units (within use class A1) comprising a total of 3,199m<sup>2</sup> floor space
- 8 storage and distribution units (within use class B8) comprising 8,660m<sup>2</sup> floor space
- 2 drive through restaurants (within use class A3/A5) comprising 343m<sup>2</sup> floor space
- 1 vehicle maintenance and repair unit (within use class B2) comprising 409m<sup>2</sup> space
- Associated landscaping, parking, new access and related highways works on and off site

This application is a resubmission of the above and seeks permission to alter the design, layout and mix of uses within the approved scheme. The number of units proposed in this revised scheme is reduced from 14 to 9, and the overall floor space reduced from 11,682m<sup>2</sup> to 9,728m<sup>2</sup>.

The use classes referenced in this revised scheme take account of the amendments the Government made to the Town and Country Planning (Use Classes) (Amendment) (England) 2020 in October 2020.

This revised scheme proposes the demolition of all existing buildings and erection of 9 commercial units including:

- 1 retail unit (Class E(a)) including an Aldi foodstore – 1,899m<sup>2</sup> floor space
- A gym (Class E(d)) – 1,023m<sup>2</sup> floor space

- 3 storage and distribution units (Class B8) one of which includes outside storage and racking – 4,243m<sup>2</sup> floor space
- 2 drive thru restaurants (Class E (b/Sui Generis)) - 343m<sup>2</sup> of floor space
- 1 builders' merchant (Sui Generis) including the display, sale and storage of building timber and plumbing supplies, plant and tool hire, including outside display and storage along with storage racking, ancillary kitchen joinery showroom – 1,811m<sup>2</sup> floor space
- 1 vehicle maintenance, repair and MOT unit (Class B2) - 409m<sup>2</sup> floor space
- 2 substations

During the consideration of the application some further minor amendments to the design and layout of unit 5 (builders' merchant) have been submitted.

## **PLANNING HISTORY**

The site was subject to several planning applications in the 1980s, the 1990s and one in 2003 for several retail (food and non-food) and mixed-use schemes that included offices, business, general industrial and storage and distribution, petrol filling stations, vehicle repair uses and fast-food restaurants and car parking. Several of these applications were withdrawn, refused, granted or allowed on appeal

The planning history most relevant to the consideration of this application is the January 2020 permission (ref: 19/00037/FUL) identified above, which this application is a resubmission of.

## **SUMMARY OF REPRESENTATIONS**

The application has been advertised by press and site notices. Adjoining properties have also been informed by letter. In total 14 letters of representation have been received. 13 in objection and 1 in support of the scheme. The representations are summarised as follows:

In objection:

Highways issues

- The road network is at capacity and increased traffic and associated congestion cannot be accommodated and will negatively affect surrounding residents and businesses
- The safety of pedestrians will be compromised by the site access proposal, particularly on match days, when footfall is very high
- No measures are included to mitigate the disruption to cyclists using the Penistone Road cycle route are proposed
- The Upper Don Trail and the Penistone Road cycleway (part of the national cycle network) come together at this site and there is inadequate provision within and through this site for cyclists
- The emphasis on car-based mobility and out of date attitudes towards active travel need to be addressed urgently given how the context for this development has substantially changed in the last year (reference to global pandemic) and the need to achieve carbon neutrality

- Displaced matchday parking and potential damage to highway verges needs to be considered by the developer
- This is a car focused development with little direct access for pedestrians from the surrounding highways, too much space is dedicated to parking and vehicle circulation
- The proposal is contrary to national and local policy aims of reducing car dependence
- The proposed scheme does not prioritise or promote pedestrian cycle access or provide off road pedestrian and cycle infrastructure that should now be built to nationally recognised standard of LTN 01/20
- The development will harm the environment and deter active travel, with little benefit to the local community

#### Retail/Business concerns

- The units and types of uses proposed are like others in the locality. A number of these existing units sit empty and unused
- A more diverse range of units such as pharmacies, shops selling clothing and other household goods would be more attractive, than uses that are like existing business already operating in the area
- Additional catering facilities will affect the income and viability of mobile caterers who serve customers on Sheffield Wednesday match days

#### Visual amenity

- The development is not aesthetically of any value.

#### Other issues

- The development does not contribute towards the cultural, heritage and wildlife aspects of the River Don and its tributaries, which are becoming a linear park and wildlife corridor
- There is no provision for public electric vehicle charging, this is necessary based on the given the Governments proposal to ban internal combustion engines from 2030
- Higher power 10kw chargers should be provided rather than the 'token' 7KW chargers provided as part of the Sainsburys development

#### Cycle Sheffield object on the following grounds:

- The development fails to sufficiently facilitate sustainable and active travel
- No detail has been provided on how the historic waterway (Wardsend Goyt) with the site is to be restored, made accessible and managed. Details of how the woodland and mill goyt area is to be restored should be provided to enable this area of the site to become a valuable and attractive public amenity and wildlife habitat
- The applicants have modified the scheme to take account of the changes in the market, as such the LPA are entitled to strengthen its requirement to support sustainable and active travel to ensure that infrastructure is now built to LTN01/20 standards

- The site stands at a key location at the emergence of two long distance cycle routes both of which could be significantly improved within the development site without impinging on its functionality
- A series of improvements to the planning conditions and amendments to the scheme are required considering recent local and national policy commitments to promoting sustainable travel. These include:
  - 5m wide cycleway (segregated) along the whole Penistone Road site frontage. This is currently shown to be tortuously diverted
  - The footway on the Herries Road North widened to 5 metres with segregated cycleway installed as part of the development not noted as a future 'improvement line' for others to provide. The proposed 4 metre width is substandard. The impacts from the loss of a small number of self-seeded trees to accommodate the works would be minimal. The 5-metre width is required to continue the Upper Don Trail being developed by the Council
- Vehicle accesses from Penistone Road and Herries Road North to be continuous cycle-footways or 'blended crossings' (walking and cycling priority)
- A Toucan Crossing at Penistone Road/Herries Road junction prior to use commencing and funded by the applicants given the increased priority afforded to active and sustainable travel
- Enhanced car parking restrictions is required as parking on footways and cycle lanes is a problem on SWFC match days
- Ecological survey of the woodland and Goyt and a plan for its restoration has not been supplied. The area has ecological and historic value that could become a valuable and attractive public amenity if public access is provided, and enhancements made

The Upper Don Trail Trust object on the following grounds:

- Insufficient contribution to facilitating sustainable and active travel on the major roads adjoining the site
- Ecological and historical value of the Wardsend Goyt how it is to be restored, made accessible and managed has not be explored. Improvements are required and are not incorporated into the proposals
- The council are entitled to strengthen its requirements for the applicants to support sustainable and active travel to the various outlets proposed, some of which (gym) will attract more users with a greater interest in active travel
- The approved scheme does not do enough to satisfy previous travel plan condition including requirements to reduce dependence on private cars
- A series of improvement to the site and related infrastructure are requested including:
  - Widening of the Penistone Cycle route (5 metres)
  - 5 metres segregated cycle footway on Herries Road to provide a continuation of the Upper Don Trail/
  - Blended of Copenhagen style crossing on the Penistone Road frontage
  - A toucan crossing should be provided at the Herries Road South/Penistone Road Junction by the developer now, rather than being land potentially be reserved for subsequent future improvements

Councillor Christine Gilligan Kubo on behalf of the Sheffield Green Party objects on

the following grounds:

- Supports active travel and facilities that reduce car usage to support the City's carbon reduction strategy
- Support the Upper Don Trail and Cycle Sheffield's proposal to improve active travel routes on the site and much stronger commitment to sustainable travel
- Planners are urged to insist on segregated cycleways and safer road crossings including 5-metre-wide segregated pedestrian cycle route linking Claywheels Lane to Herries Road and along the Penistone Road site frontage
- Clear plans are required for the restoration and management of the Wardsend Goyt and the rundown woodland on site to facilitate public access
- Toucan crossing required at Penistone Road/Herries Road
- Penistone Road site access redesigned as a blended crossing with pedestrian and cycle priority access
- Better enforcement of car parking restrictions is required

1 representation in support, summarised as follows:

- The site is used to exercise dogs and is in a very poor condition
- The development will provide much needed investment in a derelict site
- Jobs will be created for local people

## **PLANNING ASSESSMENT**

### Policy Context

All planning applications must be determined under s38(6) of the Planning and Compulsory Purchase 2004 Act and Section 70 (2) of the Town and Country Planning Act 1990, that is in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF/Framework) is a material consideration in planning decisions.

The key principle of the July 2021 revised National Planning Policy Framework (paragraph 8) remains the presumption in favour of sustainable development, which is identified as having three overarching objectives (economic, social and environmental) that are independent, and should be pursued in mutually supportive ways. This assessment will have due regard to these overarching principles.

The Framework's presumption in favour of sustainable development does not change the status of the development plan as the starting point for decision making. The Council's Development Plan (UDP and Core Strategy) which substantially predate the publication of the Framework, should not however, simply be considered out-of-date because of their age. Paragraph 219 of the Framework requires due weight to be afforded to the relevant Development Plan Policies, according to their degree of consistency with the Framework. The closer a policy in the Development Plan is to the policies in the Framework, the greater the weight it may be given.

Planning Balance



The assessment of this development also needs to be considered in light of paragraph 11 of the Framework, which states that for the purposes of decision making where there are no relevant development plan policies, or those policies most important for determining the application are out of date, planning permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or
- ii. any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

This is referred to as the “tilted balance” and this assessment will have due regard to this overarching principle.

The main issue to consider are whether this amended scheme raises any materially different planning issues to the consented scheme.

#### Land Use Policy

The principle of a redeveloping this underused previously developed site for a commercial led mixed use scheme, is established by the extant planning consent ref: 19/00037/FUL.

The UDP Proposals Map identifies the site as being mostly within a Fringe Industry and Business Area. The strip of land between the watercourse at the northern end of the site and Herries Road is identified as Open Space.

UDP Policy IB6 (Development in Fringe Industry and Business Areas [FIBA]) identifies the uses that are preferred, acceptable or unacceptable in the area. Several the use classes listed in IB6 either no longer exist or have been superseded by the October 2020 revision to the Town and Country Planning (Use Classes) (Amendment) (England). As such this assessment will have regard to the uses described in Policy IB6 i.e., industrial, food and drink rather than the specific use class identified by the policy such as use class A1, A5 etc as these no longer exist.

As with the previous scheme B2 uses (car repair) and B8 (warehousing) remain preferred uses of land in FIBA's.

Unit 6 is to be occupied by a builders' merchant, which as part of this scheme is classified as a 'sui generis' use. IB6 requires 'sui generis' uses to be considered on their merits. Builders' yards are inherently commercial/industrial in character and in some cases determined to fall within use class B8/B2. This is a busy commercial area where a builder's yard, regardless of its use classification, is considered to be acceptable in principle.

The drive thru restaurants, which the applicants consider to be class E/sui generis

uses, are food and drink uses under the terms of Policy IB6 and are acceptable in FIBAs. Gym uses now fall into use class E. Previously they fell within use class D2 (leisure and recreation uses) which are acceptable in FIBA's.

Small shops (defined by the UDP as less than 280 sqm sales area) are identified by IB6 as acceptable. Other shops, larger than 280 sqm, which includes the food store proposed, are identified as unacceptable unless on the edge of the Central Shopping Area or a District or Local Shopping Area.

The Policy IB6 approach to restricting larger retail developments (more than 280 sqm) to the locations listed in the policy is inconsistent with the sequential approach prescribed in Framework. The acceptability of the proposed retail, gym and food and drink uses, all of which are defined as 'main town centre' uses by Annex 2 of the Framework, is considered against the more up to date guidance in the Framework (paragraphs 87 -91) elsewhere in this report.

### Industry and Business Policy

Floor space dedicated to industrial/warehouse uses including the sui generis builders' yard use has been reduced under this scheme by 1,677m<sup>2</sup>, from 7,731m<sup>2</sup> to 6,054m<sup>2</sup>.

B1, B2 and B8 are preferred uses (in Policy IB6) that should remain the dominant land use (Policy IB9 a) in Fringe Industry and Business. The Core Strategy continues this general approach but introduces some flexibility by encouraging a wider range of employment uses.

Core Strategy (CS) Policy CS1 requires land to be made available for office and industrial development in existing employment areas and there remains a need to safeguard land for commercial development in line with objectively assessed needs. Given its age the level of requirement in the CS is however out of date. The Council's Employment Land Review (ELR) is more up to date. It identifies a lower requirement than the CS, however, there still remains a significant land requirement. The site is identified as suitable for an employment allocation in the ELR, but it forms only one element of what is currently considered to be around a 10-year supply of employment sites.

This scheme reduces the floorspace dedicated to commercial uses compared to the approved scheme, including the floorspace dedicated to preferred B2 and B8 uses. However, the method for measuring dominance as set out in Appendix 1 of the UDP considers ground floor area, rather than total floorspace. Around 2.95 of the 4.68-hectare site approved under the previous application was made up of preferred uses (IB6). This revised scheme reduces, but not significantly, the overall floorspace dedicated to preferred uses. The use of other parts of the site for non-business/ industrial/storage/distribution uses is not however considered to jeopardise the overall supply of land for employment uses in the area, as large part of the site will be developed for preferred uses and there remain many existing commercial uses in the local area. There is no significant conflict with IB9 (a) or CS1 as employment related industrial and business uses are provided.

The scheme continues to accord with CS2 which promotes business and industry on previously developed land, and locations accessible by public transport. It is also compliant with CS5 which promotes manufacturing, distribution/warehousing and non-office business in the Upper Don Valley; and CS10 which promotes industrial, and business uses in the Upper Don Valley.

UDP Policy IB8 seeks to protect specified industrial and business sites for their preferred uses. In this instance the application site is not a specified industrial and business site in the context of the UDP.

The remainder of the criteria in IB9, IB10, IB11, IB12, IB13, IB14 are either not relevant to this type of development or considered to be complied with.

#### Open Space Policy Issues

As with the previous scheme the development does not encroach into the open space areas within the site. Consequently, there is no conflict with local or national open space policy.

#### Retail Policy

As stated earlier, the Policy IB6 approach to restricting larger retail developments (more than 280 sqm) is not consistent with the sequential approach described in paragraphs 87 to 91 of the Framework. IB6 requires development to comply with Policy S5 (shopping development outside the central shopping area and District Centres) which is also inconsistent with the Framework. The weight afforded to IB6 and S5 is therefore substantially reduced.

This assessment does however still consider the cumulative impacts of retail development in line with the requirements of S5, although the weight afforded to cumulative impact is substantially reduced as it is not a specific requirement of the Framework or the National Planning Practice Guide (NPPG).

In accordance with annexe 2 of the Framework the extant planning permission includes the following 'main town centre uses': a discount food store (1,899m<sup>2</sup>), two further retail units intended for comparison goods (557m<sup>2</sup> and 743m<sup>2</sup>), and two drive through restaurant units (176m<sup>2</sup> and 167m<sup>2</sup>).

Under this revised scheme two of the previously approved retail units (02 and 03) are replaced by a gym (1,023m<sup>2</sup> including mezzanine) and a B8 trade unit (651m<sup>2</sup>). Class E retail floorspace is reduced by 1,300m<sup>2</sup>, from 3,189m<sup>2</sup> to 1,889m<sup>2</sup>. The floor space dedicated to main town centre uses (gym, food store, drive thru restaurants) as part of this revised scheme is 3,265m. This occurs largely because of the new gym's inclusion of a mezzanine floor.

The previous application was subject to the sequential and impact tests set out in paragraphs 86 to 90 of the 2019 Framework. The same sequential and impacts tests are contained in paragraphs 87 to 90 of the July 2021 Framework and remain applicable to this revised scheme.

#### Sequential Test

The Framework states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption (paragraph 86).

Paragraphs 87 to 90 of the Framework describe the circumstances where local planning authorities should apply a sequential test (ST) to applications for main town centre uses. An impact test is required for retail and leisure development proposals with a gross floorspace of over 2500m<sup>2</sup> (where there is no locally set threshold, as is the case in Sheffield) which should include impact on investment and on town centre vitality and viability.

The purpose of the sequential test is to ensure that the suitability of more central sites to accommodate the development have been fully considered. The applicant has submitted a sequential test.

As with the previous scheme the area of search for sequentially preferable sites is limited to the proposal's primary catchment area (where it would expect to draw 90% of its trade from) which is a 5-minute drivetime. Shoppers will generally travel to the retail destination that is closest to them and a 5-minute drive-time catchment avoids significant overlap with catchments of other existing destinations that are similar in size to this proposal (of which there are several in north and north-west Sheffield). The above approach was previously considered appropriate by officers (and an independent reviewer) and there is not considered to be any legitimate reasons to alter the requirements for this revised scheme.

It is not considered appropriate to disaggregate the proposal, which would lead to smaller in-centre sites being considered for each component of the proposal. The reasons for this are the same as the previous application; breaking the proposal up into component parts would change the broad nature of the proposal and, for a detailed scheme where occupiers are lined up, such as this, it is unreasonable to apply that level of flexibility (*Aldergate Properties Ltd v Mansfield District Council and Regal Sherwood Oaks*).

Consistent with the previous application search for suitable opportunities in the catchment, the applicant has applied a 20% allowance either way to the proposed developable retail area. These parameters demonstrate a flexibility over the format and scale of the development that are reasonable and accord with the NPPG, which advises that it is not necessary to demonstrate that a potential town centre or edge of centre site can precisely accommodate the scale and form being proposed.

The applicant did not find any suitable or available sites within the catchment. Under 19/00037/FUL, Hillsborough Exchange was considered available and could feasibly accommodate the amount of proposed floorspace, but the characteristics of the proposed redevelopment would not suit the operational requirements or trading model of a discount foodstore and drive-thru facility in particular.

Discount food stores require ample car parking that is easily connected to the store and a prominent roadside location which is capable of attracting passing trade.

Officers previously agreed with this conclusion, which was in line with the principles associated with the High Court Judgement in respect of Aldergate Properties Ltd v Mansfield District Council and Regal Sherwood Oaks Ltd (issued July 2016) in which Mr Justice Ouseley gives clarity to the level of flexibility required when assessing a sequential test. There are not considered to be any reasons to revise the Council's position on this matter. Consistent with the previous approval there are not considered to be any other suitable sites for the main town centre uses proposed within this revised scheme, and on that basis, the sequential test is considered to have been passed.

### Impact Test

An impact assessment was carried out by the applicant for the previous consent because the total amount of proposed retail floorspace was above 2,500m<sup>2</sup> which is the trigger point in the Framework (Paragraph 90) for when an impact assessment is required. This proposal reduces the amount of retail floorspace below that trigger point, but UDP Policy S5, which carries limited weight, requires impact to be considered for all retail development outside the Central Shopping Area and District Shopping Centres. The applicant references the potential impact on the vitality and viability of District and Local Centres within the proposal's catchment, and on existing, committed, and planned investment within those Centres (covering the two categories of impact in Framework paragraph 90).

The Framework and the NPPG do not require an assessment of the cumulative impacts of developments but Policy S5 does (in relation to the City Centre and District centres).

The previous impact assessment was considered by Council's Officer and independently reviewed ('the independent review') by external consultants appointed by the Council.

### Hillsborough District Centre

The applicant states that the impact on Hillsborough District Centre, when considering the cumulative impact of the new Lidl at Malin Bridge and the recent changes at Kilner Way Retail Park, was assessed to be 11% under the extant permission. This accounted for the restrictions on the sale of fashion and footwear goods at units 2 and 3 and a 'no poaching' clause (which seeks to ensure that existing comparison goods retailers in Hillsborough District Centre retain a presence in the centre for at least five years). Without these conditions, officers (and the previous independent review) concluded that the impact on the vitality and viability of Hillsborough would be significant adverse.

Removing the sale of retail goods from units 2 and 3 means the conditions placed on the extant approval are no longer needed. Officers consider the cumulative impact of the proposal is reduced from 11% to 9.8%, while the convenience and comparison impact of the proposal on its own is 3.2% on Hillsborough (compared with 4.4% for the extant permission with conditions).

The revised proposal is not likely to result in a significant adverse impact on the

vitality and viability of Hillsborough District Centre, which was previously identified to be operating above its benchmark. It also remains anchored by Morrisons and provides a good range of comparison shops and other related retail services expected of a district centre. The effect of the Covid-19 pandemic on centres is acknowledged and considered in further detail below.

#### Catch Bar Lane Local Centre

Catch Bar Lane (also known as Middlewood Road) Local Centre is the largest of the local centres in the catchment area. It is anchored by a small well-established Asda store and contains many independent operators. At the time the extant permission was granted in January 2020, it was assessed as a reasonably healthy centre with four vacant units (out of 67 units). Officers (and the independent review) at the time considered that the impact of the proposed development, on its own, would not be 'significant adverse' (14% impact). Officers consider the impact will because of this revised scheme be reduced to around 12.9%.

It was reported under 19/00037/FUL that the cumulative impact of the proposals (25% in 2020, now 24.6%), considering Jack's foodstore at Kilner Way and the Lidl at Malin Bridge, was likely to have significant adverse impacts on the overall vitality and viability of Catch Bar Lane Local Centre. The cumulative impact of this revised development is reduced following the exclusion of the retail uses that previously occupied units 2 and 3 under the extant permission. The percentage impact still however remains high, as Catch Bar Lane is largely reliant on the sale of convenience goods. The impact is acknowledged, however consistent with the previous decision, there remains no grounds to refuse the proposal under Policy S5 as it is not consistent with the national policy, and it only requires the consideration of cumulative impact on the City Centre and District Shopping Centres. Catch Bar Lane is a Local Centre.

#### Halifax Road Local Centre

At the time of approving the extant permission, Halifax Road Local Centre was judged to be a healthy and attractive local centre with a low vacancy rate. The existing Lidl store is the largest of the units in the centre and there is a range of independent convenience and comparison shops. The independent review considered the impact of the Penistone Road proposal on its own (21.4%, 20.81% today) would not be 'significant adverse' because of the very good health of the Centre and because of the likelihood that the Lidl store will continue to trade satisfactorily, despite bearing the brunt of the impact.

The cumulative impact of the proposals (24.9%, 24.75% today) considering Jack's and the Parker's Yard (Malin Bridge) scheme, was considered likely to have a significant adverse impact on the overall vitality and viability of Halifax Road Local Centre. Although the cumulative impact has reduced with the proposed exclusion of retail goods being sold from units 2 and 3, the percentage impact is still high because Halifax Road is largely reliant on the sale of convenience goods. The Council's position with regards to Policy S5 remains the same as above in relation to Catch Bar Lane.

## Other Centres

The view of officers and the independent review at the time of granting the extant permission, considered that the other Centres within the proposal's catchment – Southey Green Local Centre, Dykes Hall Lane Local Centre, Chaucer District Centre, Herries Road Local Centre and Malin Bridge Local Centre – were not likely to be significantly adversely affected by the proposal. There is no reason to change this view and, overall, the impact on vitality and viability is likely to be reduced because of the removal of retail goods floorspace from units 2 and 3.

## The Impact of Covid-19

A committee report accompanying the previous application reported that a judgement needed to be made about how significant impact would be based on local circumstances. The existing health and vitality of a Centre is an important factor as described in the NPPG. For example, a small impact on an already struggling Centre is more likely to be significantly adverse than on a Centre that has fewer vacancies, a good range of shops and high footfall.

There are limitations to undertaking town centre health checks such as observing footfall levels and vacancies, due to the recent measures that have required people to work from home (where possible) and the prolonged closure of 'non-essential' businesses. It is widely accepted that 'lockdown' measures have accelerated changes in consumer behaviour and retailers have been forced to re-evaluate their space requirements. It is possible that these changes could affect Hillsborough District Centre and other centres, though it is likely to have more effect on the sale of comparison rather than convenience goods, which have remained open throughout the pandemic; the latest proposal only includes predominantly convenience floorspace (discount food store) and is therefore a lot less likely to impact

## Hillsborough and the surrounding areas

There are reports nationwide that centres that have high residential populations around them (which Hillsborough and the others identified centres do) have fared relatively well since March 2020 due to a higher number of people working from home (Local Data Company 2020H1) and shopping locally. The applicants don't offer any such data or observations for Hillsborough or the other centres as part of this application. However, it is not strictly necessary or required, and for the reasons identified above is not considered to have any significant material impact on the vitality or operation of the centres.

Online shopping is reported to have increased over the last 12 months (from around 20% pre-pandemic to 30-35% for all retailing). An increase in online trading will have caused a reduction in turnover of Hillsborough and other centres (and will thus intensify the impact from out-of-centre shopping) and although this is anticipated to rise back as restrictions are fully lifted, some commentators say that the rate of online shopping will not drop to pre-pandemic levels. Again, the extent to which this will affect Hillsborough and other centres is not known because they have always relied, and will likely continue to rely, on a local catchment for

predominantly convenience goods. Also, discount foodstores do not have a significant online presence so are less affected by such trends. When considering the impact of the proposed and extant schemes on a like-for-like basis, an increase in online trading is unlikely to have a significant adverse impact on Hillsborough District Centre or other centres.

#### Impact on existing, committed and planned investment

The removal of retail goods floorspace from units 2 and 3 significantly reduces the relevance of the objections received as part of the extant scheme from Killultagh Estates. There is not considered to be any reason to be concerned about the impact on existing, committed and planned investment at Hillsborough or any other Centre within the proposal's catchment.

#### Impact of food, drink and Gym use

The total amount of food and beverage and leisure floorspace in the latest proposal is 1,366m<sup>2</sup>. These proposals will make the scheme more attractive than if it was only a discount foodstore and B8/sui generis uses, but on a like-for-like basis the impact on Hillsborough and other Centres will be limited (currently there is only understood to be one fitness venue in Hillsborough). Given the relatively small volume of floorspace dedicated to food, drink and leisure, and the nature of the uses proposed, Hillsborough District Centre and other Centres within the proposed development's catchment are not considered to be significantly adversely impacted.

#### Retail conclusion

The revised scheme is considered to have passed the sequential test and is not likely to lead to a significant adverse impact on the vitality of viability of Centres within the proposal's catchment, nor on existing, committed or planned investment.

When recommending approval of the previous scheme, officers were concerned about the impact of units 2 and 3 if they were allowed to sell comparison goods unrestricted; such floorspace has a higher sales density, and therefore greater impact, than convenience goods floorspace. Now that units 2 and 3 are no longer proposed for retail at all, those concerns are removed, and impacts reduced.

Framework paragraph 54 clearly identifies that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this case it is recommended that the sale of convenience goods (primarily) remains limited to the proposed 1,899m<sup>2</sup> of floor space contained in unit 1 so that the discount foodstore is the only retail element of the scheme. Otherwise, following amendments to the use classes order, under Class E the gym and drive thru restaurants could be changed to retail (use class E) without permission. The subsequent impact of which falls outside the scope of this assessment and could result in negative impacts on Hillsborough District Centre and other local centres in the area. On that basis conditions controlling the retail floor space and preventing the change of use of the gym and drive thru restaurants to retail, without first seeking permission from the local planning authority is



deemed necessary and justified.

## Design Issues

UDP Policy IB9 (Conditions on development in industry and business areas) includes criteria (c) and (d) which seek to ensure that buildings are well designed, of a scale and nature appropriate to the site and the built and green environment is protected. To comply with IB9 (e) development should not harm the quality of the environment to such an extent that other new industry and business development would be discouraged. Good quality landscape design in all new development is expected (UDP policy BE6) expected and the protection of trees and woodland and retention of mature trees and hedgerows (where possible), and replacement of trees that are lost to accommodate development is required by GE15. Paragraph 170 a) and b) recognise the economic and other benefits of trees and woodland.

UDP Policy BE5 and Core Strategy Policy CS74 seek good quality design and requires development to respect the areas landscape character.

Chapter 12 of the Framework (Achieving well-designed places) identifies good design is a key aspect of sustainable development. Paragraph 130, seeks to ensure that developments function well and add to the overall quality of the area, and:

- are visually attractive because of good architecture, layout and landscaping
- are sympathetic to local character, including the surrounding built environment (while not preventing appropriate innovation or change)
- maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit; and
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development

The identified local design and landscape policies are considered to align with the Framework and continue to carry substantial weight in the determination of this application.

## Layout and landscaping

The site is highly prominent and visible from three public highways, two of which (Penistone Road and Herries Road) are identified as strategic highways on the UDP proposals map.

The site is laid out in a typical retail/business park arrangement. Each unit has dedicated parking and servicing facilities that can be accessed from the adjoining highways and the proposed internal spine road. Each of the previously approved pedestrian/vehicular accesses to the site from Penistone Road, Herries Road and Herries Road south are retained.

As with the previous scheme the two drive thru restaurants are located on the Penistone Road site frontage. The orientation of Unit 7 (previously unit 12), which

is located towards the southern end of the site, has been turned through 90 degrees and the drive thru lane and parking reconfigured. The siting and arrangement of the other drive thru restaurant (unit 04) and commercial units 8 and 9 (previously 13a and 13B) remains unchanged from the previous scheme. The substantial area of protected woodland located adjacent to the north and east boundaries of the site are retained, consistent with the approved scheme. The layout and siting of the proposed food store is unchanged. The footprint of Unit 2 which sits alongside the food store, has been increased slightly and a mezzanine floor added to accommodate the proposed gym use. Unit 3 has been reduced in size slightly and sited further to the south adjacent to the site access from Herries Road. The layout of these elements of the scheme remains acceptable.

The primary layout changes relate to the units located centrally and to the south of the site. A terrace of 5 commercial units (previously units 06 to 10) are to be replaced by a single large commercial unit (unit 05) and its associated yard and service area which will be accessed from Herries Road.

Approved Unit 11 was sited adjacent to Herries Road South and was a very large format building (3,366m<sup>2</sup> floor area) and had an associated outside storage and service yard to the side. It is to be replaced with a much smaller building along with storage areas, racking, vehicle circulation space and parking associated with a proposed builder's merchants. Customers will access the unit from the proposed site spine road. Service vehicles will access from Herries Road under a similar way to the approved scheme.

New tree planting and landscaping will compensate for the loss of the low value trees (Category C) within the site that are removed to accommodate the development.

The group of TPO'd trees at the northern tip of the site are largely retained and will be protected during construction in accordance with the relevant British Standard. Some limited pruning of the TPO trees overhanging the site and the highways is proposed, as is some limited felling of dead or dying species (mainly willow) within the woodland.

High quality hard and soft landscaping is integrated into the scheme. The mature woodland to the north will screen the service yards of the food store and unit 2 and 3.

The revisions to the site layout are considered acceptable.

#### External appearance

The drive thru restaurants have been designed to reflect the requirements of their potential occupants. Unit 04 (Costa Coffee) is faced in standing seam metal cladding, curtain wall glazing and buff brick. Unit 07 (Taco Bell) is primarily faced in buff brickwork and glazing, but also includes some contrasting Corten and anthracitic composite cladding.

The proposed food store and units 2 and 3 are read as a terrace. They are faced in

buff brick and include large areas of glazing and elements of metal standing seam bronze coloured cladding. Building entrances are made legible through the addition of entrance canopies.

The other commercial units (builders yard etc.) are generally two storeys high, some include internal mezzanines. The buildings are faced in silver and anthracite cladding, with large areas of glazing. Sections of buff brick are also proposed and are framed with a contrasting bronze coloured metal cladding. Units 8 and 9 include green walls. Glazing is used to identify building entrances and publicly accessible parts of the various buildings proposed. Unit 06 has a large yard that includes substantial areas of racking for the storage and display of goods. These areas are not considered to harm the visual amenities of the appearance of the site as they will largely be screened from the public highway by existing and proposed buildings and new landscaping. Racking and outside storage will be limited to a height of 5.5 metres to maximise the screening effects of the adjoining buildings.

The revised layout and minor changes to the design and external appearance of the development are considered acceptable.

The proposal is considered to enhance the appearance of the site.

#### Highway Issues

UDP Policy IB9 (f) identifies that new development should be adequately served by transport facilities, not endanger pedestrians, provide safe access to the highway network and provides appropriate off-street parking.

Policy CS51 identifies 6 strategic transport priorities which include, promoting choice by developing alternatives to the car, maximising accessibility, containing congestion levels, improving air quality, road safety and supporting economic objectives through demand management and sustainable travel initiatives.

CS53 sets out a number of ways the demand for travel will be managed to meet needs. These include promoting public transport, cycling and walking, implementing travel plans to maximise the use of sustainable forms of travel and mitigate negative impacts of transport, and applying maximum parking standards to manage the provision of private parking spaces.

Policy CS55 states that improvements to the cycle network will be given priority on strategic links, mainly to key employment locations particularly on, amongst other routes, through the Upper Don Valley with a network of links to neighbouring residential areas.

Framework paragraph 110 identifies that opportunities to promote sustainable transport modes should be taken up based on the type of development proposed and its location; safe and suitable access is secured for all users; the design of streets, parking areas and other transport elements reflects current national guidance (including the National Design Guide and the National Model Design Code) and significant impacts on the transport networks or highway safety are cost effectively mitigated to an acceptable degree.

Paragraph 111 of the Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The site is to be accessed from Penistone Road, Herries Road and Herries Road South. Penistone Road and Herries Road are bus routes and have stops next to and opposite the site. There is a shared pedestrian cycle route along the Penistone Road frontage of the site.

### Traffic Modelling

The previous scheme was supported by a detailed transport assessment. The assessment utilised the Council owned micro-simulation model (Aimsum) which considered the implications of development traffic in the immediate vicinity of the site. The modelling demonstrated that movements to and from the development wouldn't worsen the existing operation of the network, journey times and/or congestion. The design and layout of the previous scheme was also not considered to compromise highway safety.

The computer database TRICS was used to derive multi-modal trips for the previous application. The same database has been used to derive trips for this revised scheme and the accompanying transport assessment has been updated to reflect the proposed changes to the scheme.

Even with taking account of the addition of a gymnasium, the predicted traffic movements associated with this revised scheme have reduced by 31 vehicle movements (two-way) in the AM peak hour, 3 vehicle movements (two-way) in the PM peak hour and 99 vehicle movements (two-way) in the Saturday peak hour, when compared to the extant planning permission. This being the case and bearing in mind the developer already has an extant planning consent for a scheme that includes more floorspace, no additional modelling work has been undertaken or considered necessary by officers. for this fresh application.

Three new junctions provide access to the site. The internal layout and existing junction on the network are all considered to continue to perform within capacity when subjected to the anticipated development trips. There are no highway objections to the proposed accesses for service vehicles. The proposed development would not cause unacceptable impact on highway safety or severe residual cumulative impacts on the road network.

A condition is recommended to secure details of the access and highway accommodation works.

### Parking

The extant scheme included 287 vehicle parking spaces. This revised scheme provides a total of 244 spaces, including 9 parent and child spaces at the proposed food store and 14 disabled bays. This represents an overall reduction of 43

spaces. However, having regard to the significant decrease in non-food retail and overall quantum of B8 floor space, the minor increase in drive thru floor area and the addition of a gym (which only results in a requirement for 21 parking spaces based on SCC's standards), the revised parking provision is considered acceptable.

On site cycle parking includes 24 Sheffield standard parking stands (48 spaces) the applicants have also agreed to provide some no standard cycle parking spaces to accommodate trolley cycles etc.

14 electrical vehicle parking spaces are proposed which will have access to 7 electrical vehicle charging points.

The loss and displacement of the occasional match day car parking that currently occurs on the site is likely to cause a ripple effect in terms of where on-street parking occurs. It is considered that if current on-street parking restrictions are observed, this displacement should not create significant issues. Vere Road, Fielding Road and Bickerton Road were left out of the Hillsborough Parking Permit scheme because, when consulted, the majority of residents wanted to be excluded from the scheme. The residents also delivered a similar verdict when offered a match-day permit parking scheme.

## Cycling

The Upper Don Valley cycle route (NCN627) passes, off-carriageway, across the A61 development site frontage. It runs from the City Centre, out along Clay Wheels Lane, through Oughtibridge, Wharnccliffe Side, Deepcar and Stocksbridge. Across the site frontage it is a shared pedestrian/cycle route varying in width between approximately 3 and 3.5 metres. This frontage currently has three vehicular accesses, with no planning restrictions on hours or intensity of use. The development proposal would close these accesses and create one new vehicular access allowing traffic to turn left in from the A61 and re-join turning left out. During the consideration of this application the access from the A61 has been redesigned as a continuous cycle-footway, prioritising walking and cycling over vehicles. The access will however need to be audited to avoid creating a false sense of safety. It is considered that the consolidation of the three accesses into one and the redesigned junction priority offers immediate benefits to the pedestrian/cycle route.

The existing shared pedestrian/cycle facility alongside Penistone Road will be widened to 4 metres over much of its length between Herries Road and Herries Road South. It will be resurfaced, and the lighting columns repositioned to the rear of the route. The existing block paving which vehicles tend to park on (bouncing over the cycle route in the process) will be landscaped, incorporating a timber knee-rail, or similar enclosure. This will prevent cars and mobile trading vans parking off carriageway on this part of the frontage. There currently is not the space available to provide a signalised crossing for pedestrians/cyclists at Herries Road South. For this reason, it was not provided when the off-carriageway shared pedestrian/cycle route was constructed in 2015 and does not form part of the extant planning consent.

The vacant garage premises on the corner of Penistone Road and Herries Road South remains outside the application site and is not currently available for re-development.

A preliminary highway design has been worked up that provides extra lanes at the A61 Penistone Road/Herries Road South junction to improve capacity, that provides a signalised crossing for pedestrians/cyclists and off-carriageway segregated cycle paths along the three sides of the development site. As with the previous scheme the applicant has agreed to accept a 'highway improvement line' which is indicated on the approved plans. When the garage site becomes available for re-development, it is intended that no built development will occur in front of the highway improvement line.

When the Council has secured funding to implement the scheme (which currently is not justified in planning terms on the back of the extant or this proposed development) the land required to accommodate it will be dedicated to the Council at no cost (barring legal costs). As with the previous scheme, a condition is recommended to secure this provision. The proposed development would not prevent delivery of the highway scheme, although some of the car parking and landscaping within the site may need to be modified slightly.

Consideration has been given to the provision of off-road cycle facilities along Herries Road. Owing to width constraints imposed by the TPO'd woodland at the northern end and the restricted width of the footway, combined with the bus lay-by, it is not possible to provide a continuous link through to the A61 without the loss of woodland.

However, to allow for the possibility of future widening and delivery of an appropriate cycle route, a highway improvement line has been accepted by the developer.

If delivered, a future cycle route along Herries Road would need to form part of a wider strategic route being promoted by the City Council as part of their Transport Strategy. To ensure that the cycle route is safe and continuous, it would need to connect to the rest of the cycle route via a new crossing facility (such as a Toucan crossing) on Herries Road South together with a new link towards the Five Arches bridge. It remains the case that requiring the developer to provide this link would be disproportionate, in both extent and cost, to the impact of the proposed development and so cannot be justified.

Moreover, providing a cycle route solely along the Herries Road site frontage without the continuous links and the crossing facility needed by cyclists to negotiate Herries Road and its junction with Herries Road South, raises significant highway safety concerns.

As with the previous scheme the applicant has agreed to improvements to the shared pedestrian/cycle route along Penistone Road and to dedicate land on the fringes of the development to the Council so that the Council is able to comprehensively upgrade the off-road cycle facilities if and when funding has been secured.

The other vehicular accesses to the site off Herries Road and Herries Road South will be made as pedestrian friendly as possible. Neither road currently carries an off-carriageway cycle route. LTN 1/20 advises against unsafe gaps. Given the low level of cycle activity generated by the development there is no justification for seeking further improvements.

The Council's Highway Section have advised that this revised scheme remains acceptable. It continues to deliver the commitments made by the developer under the previous scheme, delivers some immediate benefits at the junction with the A61 including increased pedestrian and cycle priority, it reduces the impact on the operation of the adjoining network when compared to the previous scheme and continues to afford strategic cycling improvements should funding become available in the future.

#### Construction related traffic

The applicants have provided a site logistics plans and information on how the wheels of construction vehicles will be washed and debris will be prevented from being tracked out on to the adjoining highways during the construction phase. Construction vehicles will access the site from Herries Road, with site workers and office related staff using the newly created junctions on Herries Road South and Penistone Road (exit only).

These details are acceptable and will be secured by condition.

#### Travel Plan

The applicants have submitted a Travel Plan it includes a series of measures designed to:

- reduce the number of vehicles travelling to and from the site
- increase opportunities for staff to use more sustainable modes of transport
- reduce the overall transport impact of the development upon the environment
- promote more sustainable ways of travelling; all in support of local and national policy aims of managing travel demand more effectively

The plan sets a framework for individual occupiers of the development to work within in producing their own individual plans, it also includes effective arrangements for monitoring the performance of the plan (s) and revising of its objectives should this be necessary. The Council's Highways section consider the travel plan to be acceptable.

Taking account of the above there are no highway objections to the revised scheme subject to the imposition of appropriate conditions.

#### Air Quality

The site is located within the Sheffield city-wide Air Quality Management Area for

exceedances of nitrogen dioxide and particulate matter.

Paragraph 186 of the Framework states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking account of Air Quality Management Areas (AQMA's) and cumulative impacts of other developments. Opportunities to improve air quality or mitigate impacts such as through traffic and travel management as well as green infrastructure and enhancement should be identified. Decisions should be consistent with the local air quality action plan.

Paragraph 174 (e) identifies that new and existing development should not contribute to or be adversely affected by unacceptable levels of air pollution and should help to improve local environmental conditions such as air quality.

Policy CS66 requires action to be taken to protect air quality particularly where residents in road corridors with high levels of traffic are directly exposed to levels of pollution above national targets. Policy GE23 of the UDP identifies that development will be permitted only where it would not locate sensitive uses where they would be adversely affected by sources of air pollution. These policies align with the Frameworks aim of reducing and mitigating the impacts of development on air quality and are therefore afforded weight.

An air quality assessment was submitted with the previous application and has been updated to reflect the revisions to the scheme. The report considers development impacts on annual mean levels of nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) concentrations at receptor locations around the site including alongside existing dwellings on Penistone Road.

For the construction phase dust mitigation measures are recommended to reduce the effects of dust including water suppression during demolition operations. Consistent with the approved scheme the operational phase of the development assessment concludes that concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> remain below the air quality objectives/target values. The impact of the development is predicted to be negligible (1% or less change) at all the local receptors. The report includes a series of mitigation measures that could include provision of low NO<sub>2</sub> boilers, implementation of a green travel plan and provision of electric vehicle charging points which are secured by condition.

The air quality effects are therefore not considered to be significant and the proposal complies with Core Strategy Policy CS66, UDP Policies GE22 and GE23 and the Framework.

## Ecology

UDP Policy GE11 seeks to protect the natural environment and UDP Policy GE15 seeks to encourage and protect trees and woodland. UDP Policy GE17 seeks to protect and enhance streams and rivers.

These policies strongly align with the NPPF (paragraph 174), which states that planning policies and decisions should contribute to and enhance the natural and



local environment by, amongst other measures, minimising impacts on and providing net gains for biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures.

This brownfield site is largely covered by foundation hardstanding of demolished industrial buildings and existing commercial premises. The north of the site is predominantly woodland that is traversed by a small watercourse.

The preliminary ecological assessment (PEA) submitted with the previous application (dated October 2018) did not identify any specific habitats or ecological constraints to development. There is some limited commuting and foraging potential for bats, however, impacts from the development are determined as low to negligible. Nesting opportunities for birds are available in the woodland to the north although none were recorded. Some historic evidence of badgers was noted within the woodland, however there is no current activity and standard precautions are recommended to mitigate affects from construction activity.

The applicant has updated the PEA following a site walkover in early 2021. The PEA identifies that there has been no significant change in the site's ecological status since 2018.

In line with the recommendations of the 2018 PEA the 7 buildings identified for demolition have been the subject of a further bat survey. No roosts or signs of bat activity were recorded in any of the buildings.

The demolition of 4 of the 7 buildings is not considered to have any impact on roosting bats. Building 3 - a disused retail unit which fronts Herries Road; and Building 7 - an operational electricity substation; are identified as having negligible potential to support roosting bats. Building 2 – a two storey brick built commercial building with an attached single garage has moderate potential to support roosting bats.

Building 2 is in a good condition, it does however have a missing ridge tile and a couple of dislodged slates around the eaves of the single storey garage. The accessible loft spaces were searched, and no historic or recent bat activity was detected.

Building 3 was found to be in a good condition, a small void was identified under the soffit and in the northern elevation. An endoscope inspection did not identify any signs of bats.

Building 7 was not inspected internally as its an active substation. Vents in the side elevation are mesh lined preventing access by bats, voids around the door could however allow bats to access the structure.

As the above three buildings were not fully accessible at the time survey, and in order to rule out the potential for bats to have taken up roost in either buildings 2, 3 or 7 in the intervening period between carrying out the bat survey and the demolition of the structures, further pre demolition surveys are required (secured by condition) in accordance with the Bat Conservation Trust Good Practice

Guidelines (2016).

To protect nesting birds' during the peak nesting season, demolition should be avoided between March to September, or a pre-demolition check carried out (by a suitably experienced surveyor) to identify if species that can nest all year round are present. Details will be secured by condition.

A series of mitigation measures including providing bat roosting and bird nesting opportunities are proposed, lighting will need to be sensitively designed to mitigate effects on the adjoining woodland, a wildlife refuge and woodpile provided in the adjoining woodland, and site fencing designed to allow badgers and other small mammals to navigate across the site.

The Land and Ecological Masterplan (LEMP) conditioned as part of the previous consent has been submitted for consideration as part of this application. It includes appropriate long-term management (5 years) proposals for the site and adjoining woodland and is therefore acceptable. The development will be conditioned to be carried out in accordance with the recommendations of the LEMP.

Over 50 new extra heavy standard trees, along with native hedgerows and other ornamental landscaping are to be planted which will enhance the biodiversity and appearance of the site.

Subject to the imposition of the various conditions identified above the development is acceptable from an ecology perspective.

#### Amenity Issues

UDP Policy IB9 relating to conditions on development in industry and business areas also includes criteria (b) which seeks to ensure that new development or change of use will not cause residents to suffer from unacceptable living conditions.

Paragraph 130 (f) of The Framework identifies that development should create places with a high standard of amenity for existing and future users. Development should also be appropriate for its location taking account of the effects of pollution on health and living conditions, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development (paragraph 185).

Policy IB9 (b) aligns with the Framework and so is given significant weight.

The development is separated from the closest residential properties by the dual Penistone Road. Most of the proposed units are set well back within the site except for the drive thru restaurants which are located adjacent to Penistone Road.

The development will increase the volumes of traffic entering the site and there will be increased noise associated with vehicle movements and the serving and operation of the units proposed.

Throughout the day and into the early evening background noise levels in the area

are already high. A revised noise survey, which takes account of the proposed changes to the scheme, has been submitted. The outcomes and conclusions are very similar (near identical) to those reported previously. Occupants of the closest residential properties to the site would not be harmfully affected, subject to conditions controlling business servicing hours, use of reversing alarms (forklift trucks and commercial vehicles), external amplified sound, cooking odours and the operation of plant and equipment.

The applicant has submitted a Construction and Environment Management Plan with this application. As amended, the Council's Environmental Protection Service considers the Plan acceptable to manage noise, dust and other pollution risks arising from the construction phases of the development.

The development is not considered to give rise to any amenity issues and in this regard complies with the relevant national and local planning requirements.

### Sustainability

Framework Paragraph 157 confirms new development should comply with development plan policies for decentralised energy supply unless it is not feasible or viable having regard to the type and design of development proposed. Landform, layout, building orientation, massing and landscaping should also be taken into account to minimise energy consumption.

Policies CS63, 64 and 65 of the Core Strategy, as well as the Climate Change and Design Supplementary Planning Document (SPD), set out the Council's approach to securing sustainable development.

Policy CS63 gives priority to developments that are well served by sustainable forms of transport, that increase energy efficiency, reduce energy consumption, carbon emissions and that generate renewable energy.

A series of actions to reduce the city's impact on climate change are identified by Policy CS64. Specifically, it requires commercial developments of 500m<sup>2</sup> or more to achieve BREEAM very good and provide 10% of their predicted energy needs from a decentralised and renewable or low carbon energy source. An equivalent 10% reduction in a development's energy needs from a fabric first is also acceptable.

Securing sustainable development is a key theme of the Framework these local policies therefore continue to be afforded substantial weight.

This site is under used, previously developed land. It is in an established urban area that is near established residential properties and other commercial uses that will use its services. It is also accessible by a choice of different transport modes. Principally the site is sustainably located.

Most of the buildings proposed, except for the drive thru restaurants, are generally large format commercial buildings which from a construction and viability perspective do not lend themselves to incorporation of green roofs. A series of

green walls are however incorporated into several of the more prominent buildings. These features will enhance the appearance and biodiversity of the site and contribute towards improving air quality.

Air source heat pumps will provide mixed cooling and space heating for some of the buildings. Some of the larger format warehouse type buildings will accommodate solar photovoltaic arrays.

The applicant's sustainability statement demonstrates that between 21% and 48% of the energy demands of 7 of the 9 buildings proposed will be provided by renewable or low carbon technology. Policy CS64 imposes a site wide energy reduction requirement and the applicant has demonstrated that the requirement will be substantially exceeded.

The proposal is considered acceptable from a sustainability perspective.

### Flood Risk and Drainage

Core Strategy Policy CS67 relating to flood risk management seeks to reduce the extent and impact of flooding.

The Framework seeks to direct development away from areas at high risk of flooding. Where development in such areas is deemed necessary it should be made safe for its lifetime without increasing flood risk elsewhere.

Where appropriate applications should be supported by a Flood Risk Assessment (FRA) and considered against the sequential and exception tests set out in Framework paragraph 161 to 166.

Framework paragraph 169 requires major development to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate, taking account of the advice of the Lead Local Flood Authority.

The Environment Agency's Strategic Flood Risk Assessment Map identifies that the site is at risk of river and surface water flooding. Most of the site is in flood zone 2 where there is a medium risk river flooding, except for the woodland to the north, and a parcel of land towards the south-eastern of the site, adjacent to Herries Road.

Most of the site is at a high and medium risk from surface water flooding, except for a narrow tract of land that runs north to south through the centre of the site.

A flooding sequential test, which seeks to steer new development to areas of a lower probability of flooding, is required for development located in Flood Zone 2. Consistent with the previous application, there are not considered to be any reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding. From a flood risk perspective, the uses within the scheme are categorised as 'less vulnerable' which are considered compatible with flood zones 1, 2 and 3a.

Flood mitigation measures in the form of raised floor/ground levels and the implementation of a flood warning plan are considered acceptable to mitigate flood risk.

Underlying ground conditions are not considered suitable for surface water infiltration. Surface water is therefore proposed to be discharged, via attenuation tank and a flow control device, into the 900 mm culverted watercourse that crosses the site. Discharge will be attenuated to a brownfield rate less 30%, with provision for attenuation storage for events up to the 1 in 100 years plus climate change. The exact details of which will be secured by condition.

Yorkshire Water has no objection to the scheme provided an existing water main within the site is protected during construction. Since the previous application additional work has been undertaken to establish the exact position and depth of the water main the protection of which can be secured by condition.

Conditions will ensure existing infrastructure is protected, surface water discharge is managed and reduced, and flood risks mitigated. As with the previous scheme the proposal is considered acceptable from a flooding and drainage perspective.

#### Land Contamination

The NPPF (paragraph 183) requires a site to be suitable for its intended use taking account of ground conditions, land instability, contamination, natural hazards and/or previous activities such as mining.

A series of conditions were imposed on the previous consent to mitigate impacts from ground contamination. Further intrusive site investigation work has been carried out and a Phase II site investigation report accompanies this application.

The Council's Environmental Protection Service confirms that the report is satisfactory. A site remediation strategy and subsequent validation report are still required and can be secured by condition. Subject to the above users of the site will not be harmed by historic contamination.

#### Community Infrastructure levy (CIL)

The retail elements of the scheme are subject to a CIL charge of £60 per sq. m of gross internal floorspace plus an additional charge associated with the national All-in Tender Price Index for the calendar year in which planning permission is granted, in accordance with Schedule 1 of 'The Community Infrastructure Levy Regulations 2010.'

The funds generated through CIL will be used in connection with strategic infrastructure projects.

#### Other issues

The applicant has agreed to the imposition of a condition to secure training and employment benefits as part of the construction and operational phases of the

scheme which is welcomed.

## **RESPONSE TO REPRESENTATIONS**

Objections have identified that not enough weight has been given to the Government document entitled: Sustainable & Active Travel, Cycle Design Standard LTN 1/20, which was published in July 2020 after the granting of application ref: 19/00037/FUL.

LTN 1/20 offers guidance to Local Authorities on designing high-quality, safe cycling infrastructure. The document covers segregation from motorised traffic, measures for cyclists at junctions and roundabouts, and updated guidance on crossings, signal design and associated signs and road markings. LTN 1/20 states that substandard provision is worse than doing nothing, enticing cyclists into thinking they're protected, only to abandon them sometimes in critical/unsafe locations.

The Department for Transport (DfT) and Sheffield City Region require compliance with LTN 1/20 before releasing funding for new highway schemes. All proposed schemes are now checked by the inspectorate against the LTN 1/20 summary principles before funding is agreed. Finished schemes are/will be inspected to ensure delivery. Failure to deliver could result in funding needing to be returned to the DfT.

It is the view of highway officers that developments should aspire as much as possible to the guiding principles of LTN 1/20, though in most instances, there is no DfT or Sheffield City Region input.

The other issues raised are covered in the main body of the report.

### **Planning Balance**

The site lies mostly within a Fringe Industry and Business Area as defined in the UDP. Policy IB6 of the UDP is not consistent with the thrust of the Framework as it places an embargo on retail development that is not in or at the edge of a local centre (for appropriately sized food stores) or other out of centre locations, other than in a Retail Park or in Meadowhall. The Framework allows such development subject to the sequential and impact test requirements (paragraphs 86 to 90).

Policy S5 (District and Local Shopping Areas) is not reflective of the sequential and impact tests in the Framework and NPPG. Policy S5 also requires consideration of cumulative impacts; the Framework is silent on this matter. The local planning authority is mindful that the cumulative impacts are a material consideration. The remainder of adopted local plan policies, which are the most important for determining this application, when considered as a 'basket' of policies, still closely align with the Framework.

However, in light of the more up to date guidance in the Framework, Policies IB6 and S5, which are two of the most important local policies relevant to the consideration of this scheme, can be afforded little weight. As a consequence, the

'tilted balance' in paragraph 11 of the Framework is considered to be engaged and so the positive and negative elements of the proposed development (planning balance) must be considered. The application of the planning balance is a matter of judgement for the decision maker.

Paragraph 8 of the Framework states that, in achieving sustainable development, the planning system has three overarching objectives: economic; social; and environmental.

In pursuing an economic objective, the proposed development offers the following benefits:

- promotes inward investment to the area
- brings forward development on an underused previously developed site in a location that is easily accessible
- provides new industrial and business units, and opportunities for businesses to relocate from unsuitable premises elsewhere
- Economic benefits relating to construction value, GVA, business rates income and increased expenditure in the area to the benefit of the local economy
- Job creation - short term construction phase employment and long-term employment during the operational phase of the development (including promoting local employment opportunities and training)
- provides contributions towards infrastructure improvements via the community infrastructure levy charge

Conversely there are also some negative elements of the development namely:

- some of the employment provided, particularly in the retail sector, may be a combination of new jobs and jobs transferred from elsewhere
- the proposal will impact (although to a lesser extent than the extant permission) on the Hillsborough District Centre (although not to the extent that it would cause significant adverse impact) and the Catch Bar Lane and Halifax Road Local Centres
- the proposal would result in the loss of some of the site to non-industrial and business uses (but would not jeopardise the supply of land for employment uses)

In pursuing a social objective, the proposed development would:

- provide safe access to and from the site for staff, customers and visitors
- provide accessible buildings for all users
- provide cycle access and safeguard land for future cycle schemes
- not significantly impact on air quality during the operational and construction phases, and
- not harm the living conditions of residents in the locality and
- provide access to electrical car charging facilities

However:

- there would be an increase in traffic movement on nearby roads, although less than the extant planning permission
- there would be a risk of dust during the demolition and construction phases of the development (although with a condition to mitigate the risk from dust it is not a significant impact), and
- the proposal would displace some existing temporary car parking from the site

In pursuing an environmental objective, the proposed development would:

- regenerate an underused brownfield site
- make a positive contribution to the appearance of the visual amenities of the area
- provide soft landscaping within the development
- provide green vegetated walls
- incorporate measures to reduce energy demand
- remediate land contamination by historic use
- secure ecological enhancements and long-term management and maintenance of the TPO's woodland within the site; and
- reduce surface water discharge from the site and subsequent pressure on drainage infrastructure

However:

- the proposal would result in the loss of existing trees within the developable part of the site (although substantial replacement tree planting and landscaping is proposed and the TPO'd wooded area at the northern end of the site would be retained)

While the High Court Judgement (*Aldergate/Mansfield*) makes it clear that even out-of-date policies remain part of the development plan, and that any decision is required to assess whether the proposal accords with it, as the starting point, it is considered that the benefits of the proposal highlighted above significantly and demonstrably outweigh the minor adverse impacts of the proposal when assessed against the Development Plan and the policies in the Framework taken as a whole.

## **SUMMARY AND CONCLUSION**

This application relates to a 4.9 hectare site located between Herries Road, Penistone Road and Herries Road South. The principle of redeveloping the site for a commercial led mixed-use scheme was established in January 2020 following the grant of application ref: 19/00037/FUL which remains extant.

This scheme is a resubmission of application ref: 19/00037/FUL and includes various amendment to the approved scheme including:

- A reduction in the number of units from 14 to 9
- Overall development floorspace reduced from 11,682m<sup>2</sup> to 9,728m<sup>2</sup> and dedicated retail floor space reduced from 3,199m<sup>2</sup> to 1,899m<sup>2</sup>



- Replacement of two of the three previously approved retail units with a gym and a commercial B8 unit
- Various amendments to the layout of the site and design of buildings to accommodate the operational requirements of proposed end users

Consistent with the extant permission, preferred uses with this Fringe Industry and Business Area would remain dominant.

The proposed use class B2 (car repair), B8 (storage and distribution), Builders' yard (sui generis) and food and drink uses (now class E) comply with UDP Policy IB6 'Development in Fringe Industry and Business Areas'. However, as the scheme continues to include new out-of-centre retail development, all be it significantly less than the extant permission, and the retail unit is not 'small scale' in accordance with the definitions in the UDP, the scheme does not fully satisfy UDP Policies IB6 and S5.

However as confirmed under the previous application UDP Policies IB6 and S5 are not fully up to date and are no longer consistent with the Framework as they do not reflect the sequential and impact tests set out in Framework paragraphs 87 to 91. IB6 and S5 therefore carry significantly less weight in the determination of this application.

This revised scheme is considered to have passed the Framework's retail sequential test. Under the previous application the impact test concluded that the only centres likely to suffer from significant adverse impacts were Catch Bar Lane and Halifax Road Local Centres. Impacts on those Local Centres, and other centres are reduced following the removal of two of the previously approved retail units from this revised scheme.

As Policy S5 is not up-to date, the local planning authority is entitled, having considered S5, to give it less weight and concluded that the significant adverse impacts on Catch Bar Lane and Halifax Road are not determinative. Again, this position reflects the stance taken on the extant permission.

Cumulative impacts of a development are still a material consideration, however consistent with the stance taken on the extant permission a refusal on the grounds of cumulative impact (including the proposal, Lidl at Malin Bridge and Jack's) on Local Centres cannot be justified.

When considered on its own or alongside the schemes highlighted in the preceding paragraph, it remains your officers' position in relation to this revised scheme that a refusal of planning permission based on the impacts on any District or Local Centres in the catchment is not justified. Impacts of this revised scheme are reduced, when compared to the extant permission, as significantly less retail floorspace is now proposed.

Consistent with the previous approval, this revised application (subject to appropriate conditions) will not result in any significant adverse impact on existing, committed and planned investment in centre(s) in the catchment area of the proposal and is considered to be acceptable.

The proposal would not significantly harm the living conditions of nearby residents subject to the imposition of appropriate conditions.

The revised layout, scale and massing of the proposed buildings and the contemporary design approach is acceptable. The revised scheme will make a positive contribution to the appearance of the locality and the visual amenities of the locality.

The highway impacts of the extant permission were extensively modelled, scrutinised, and found to be acceptable. This revised scheme generates fewer vehicles movements and as such will not detrimentally affect the safe and efficient operation of the highway network. It remains the case that the requests from objectors for the developer to provide extensive cycling infrastructure is disproportionate to the impact of the proposed development, in both extent and cost and cannot be justified.

Notwithstanding the above, some improvements to the new junction with Penistone Road (A61) have been made as part of this revised scheme, which (subject to a road safety audit) will increase pedestrian and cycling priority. Consistent with the previous scheme the applicant has maintained the 'highways improvement line' that will allow the Council to make improvements to cycling infrastructure should funding be made available in the future.

No severe residual cumulative impacts on the road network will occur. The main woodland belt towards the north and north-east boundaries of the site, which is protected by TPO, will remain. The limited loss of trees from the remainder of the site will be compensated for within the development through the provision of new landscaping and tree planting.

Appropriate conditions are recommended to secure remediation of the site, sustainability measures, drainage, and flood risk measures.

As with the extant permission the proposal complies with the relevant local planning policies which continue to carry weight and those of the Framework. For the reasons identified above the development does not give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the development when assessed against the policies of the Development Plan and Framework when taken as a whole.

It is therefore recommended that planning permission is granted subject to the listed conditions.