



Minerals and Waste Planning
Environmental Permitting
Quarry Consultant

**PLANNING APPLICATION TO VARY CONDITIONS 2, 5, 7, 24 AND 25 OF PLANNING
PERMISSION REFERENCE 2017/1401 TO EXTEND THE DURATION OF THE
DEVELOPMENT TO PROVIDE FOR A RESIDENTIAL STANDARD REMEDIATION
STRATEGY, TO AMEND THE QUANTITY OF WASTE TO BE IMPORTED, AND TO
AMEND FINISHED LEVELS AND THE LANDSCAPING SCHEME AT THE FORMER
CARLTON COLLIERY SITE, SHAW LANE, CARLTON,
BARNSELY S71 3HJ**

**SUBMITTED ON BEHALF OF
PORTWARD HOMES LIMITED
BRIERLEY, BARNSELY S72 9EU**

FEBRUARY 2020

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APPENDIX

1	Carlton Colliery Remediation Implementation Plan
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1. INTRODUCTION

- 1.1 We are instructed by Portward Homes Ltd (the Applicant) to submit a planning application to vary conditions 2, 5, 7, 24 and 25 planning permission reference 2017/1401 dated 20 April 2018 for the variation of condition 1 of planning permission 2016/0068 (variation of conditions 3 and 6 of application 2015/0823 to permit revised access arrangements and to increase the number of HGV movements), to extend the duration of the development by a further 2 years to enable completion of restoration scheme Former Carlton Colliery, Shaw Lane, Carlton, Barnsley, S71 3HJ (the Site).
- 1.2 The variation is sought due to a change in the Site's allocation in the Development plan to a mixed housing and green space use. The approved remediation strategy is predicated on an industrial use which requires a lower standard of remediation than would a residential use. The residential standard for remediation has a number of implications which require additional variations to conditions other than the remediation strategy.
- 1.3 Condition 2 states:
"With the exception of landscaping and aftercare, the development hereby permitted shall have a duration of 2 years from the date of commencement."
The date of commencement is taken as the date permission was granted, which sets the completion date as 20 April 2020.
- 1.4 The variation sought is to set the date of completion 3 years from the date of this permission when granted, such that the condition reads as follows:
"With the exception of landscaping and aftercare, the development hereby permitted shall have a duration of 3 years from the date of this planning permission."
- 1.5 Condition 5 states:
"The development hereby permitted shall only be carried out in accordance with the following documents approved under planning permission 2007/1365 and consolidated under planning permissions 2011/1248 and 2015/0823, and under planning permission 2016/0068 unless amendments are made pursuant to the other conditions below:
- a) *Drawing number DTS/CC/2006/REST 03 - Restoration Scheme - showing the red line application boundary - dated August 2006, and received by the WPA on 21 December 2007;*
 - b) *Drawing number DTS/CC/2006 01A - Former Carlton Colliery - Topographical Survey Showing Pond Areas - dated March 2008, and received by the WPA on 3 March 2008;*

- c) *Drawing number DTS/CC/2006/DUST 01 - Remediation Strategy - Dust Plan - dated August 2006, and received by the WPA on 6 September 2007;*
- d) *Drawing number DTS/CC/2006/SC 02 - Remediation Strategy - Spontaneous Combustion Plan - dated August 2006, and received by the WPA on 19 September 2007;*
- e) *Drawing number 813 101 Rev A - new road layout - received on 12th July 2017.*
- f) *Drawing number DTS/CC/2007 02C - Remediation Strategy - Noise Monitoring Positions - dated November 2006, and received by the WPA on 6 September 2007;*
- g) *Drawing number DTS/CC/2007/REST 03B - Remediation Strategy - Restoration Scheme - dated March 2008, and received by the WPA on 3 March 2008;*
- h) *Drawing number DTS/CC/2006/REST 04 - Remediation Strategy - Restoration Phasing Plan - dated November 2006, and received by the WPA on 6 September 2007;*
- i) *Drawing number DTS/CC/2006/REST 06 - Remediation Strategy - Restoration Cross Sections - dated November 2006, and received by the WPA on 15 June 2007;*
- j) *Drawing number DTS/CC/2006/REST/07 - Remediation Strategy - Restoration Cross Sections - dated November 2006, and received by the WPA on 15 June 2007;*
- k) *Drawing number DTS/CC/2007/REST/08 - Remediation Strategy - Screening Bund Construction - dated May 2007, and received by the WPA on 19 September 2007;*
- l) *Drawing number DTS/CC/2007 11 - Proposed Restoration - Proposed Passbye Position - dated September 2007, and received by the WPA on 19 September 2007;*
- m) *Statement To Accompany A Planning Application For The Remediation Of The Former Carlton Colliery, produced by Fennell, Green & Bates and dated August 2007, received by the WPA on 19 September 2007;*
- n) *Restoration Landscaping Proposals, produced by Fennell, Green & Bates and dated August 2007, received by the WPA on 6 September 2007;*
- o) *Drawing number DTS/B/292/1b - Landscape Details - dated May 2010, and received by the WPA on 28 June 2010;*
- p) *Drawing number 2007/1365/02 - Drainage Pond Details - dated December 2008;*
- q) *Spontaneous Combustion Report For the Site Known As Carlton Colliery, prepared by Cromwell Wood Estate Company Limited and dated August 2007, received by the WPA on 6 September 2007;*

- r) *Dust Report for the Site Known as Carlton Colliery, prepared by Cromwell Wood Estate Company Limited and dated March 2006;*
- s) *Dust Action Plan, November 2008, Revision A - April 2009;*
- t) *Assessment of Environmental Noise for DTS by Vibrock Limited, report number R07.5216/1/PC dated 22 October 2007;*
- u) *Noise Monitoring Procedure Scheme by Vibrock Limited, scheme number SCH09.5921/1/TJW, dated 01.05.09;*
- v) *Site Investigation report prepared by Cromwell Wood Estate Company and dated April 2006; and*
- w) *Letter dated 6 May 2009 from Mr J Carlon to Mr J Scott and attached Remediation Strategy for Former Carlton Colliery, Revision 3 - April 2009.*
- x) *Second Revision to Noise Impact assessment dates 30th MArch 2016 by S & D Garritt Ltd*
- y) *Drawing 813101REV A dated July 2016 showing new access and road layout. "*

1.1 The variation sought is the replacement of the 2007 Fennell, Green and Bates Remediation Strategy and Restoration scheme with the AAe Enabling Works Remedial Implementation Plan and Drawing 173367/RIP/D/006, such that the condition reads as follows:

"The development hereby permitted shall only be carried out in accordance with the following documents approved under planning permission 2007/1365 and consolidated under planning permissions 2011/1248 and 2015/0823, and under planning permissions 2016/0068 and 2017/1401 unless amendments are made pursuant to the other conditions below:

- a) *Drawing number DTS/CC/2006/REST 03 - Restoration Scheme - showing the red line application boundary - dated August 2006, and received by the WPA on 21 December 2007;*
- b) *Drawing number DTS/CC/2006 01A - Former Carlton Colliery - Topographical Survey Showing Pond Areas - dated March 2008, and received by the WPA on 3 March 2008;*
- c) *Drawing number DTS/CC/2006/DUST 01 - Remediation Strategy - Dust Plan - dated August 2006, and received by the WPA on 6 September 2007;*
- d) *Drawing number 813 101 Rev A - new road layout - received on 12th July 2017.*
- e) *Drawing number DTS/CC/2007 02C - Remediation Strategy - Noise Monitoring Positions - dated November 2006, and received by the WPA on 6 September 2007;*

- f) *Drawing number 173367/RIP/D/006 - Proposed Development Platform (Levels) - dated September 2019, and received by the WPA on*;
- g) *Drawing number 10103/05E - Site Layout - dated 17 September 2014, and received by the WPA on*;
- h) *Drawing number DTS/CC/2007/REST/08 - Remediation Strategy - Screening Bund Construction - dated May 2007, and received by the WPA on 19 September 2007;*
- i) *Drawing number DTS/CC/2007 11 - Proposed Restoration - Proposed Passbye Position - dated September 2007, and received by the WPA on 19 September 2007;*
- j) *Report - Enabling Works Remedial Implementation Plan, produced by AAe and dated 30 September 2019, received by the WPA on*;
- k) *Dust Report for the Site Known as Carlton Colliery, prepared by Cromwell Wood Estate Company Limited and dated March 2006;*
- l) *Dust Action Plan, November 2008, Revision A - April 2009;*
- m) *Assessment of Environmental Noise for DTS by Vibrock Limited, report number R07.5216/1/PC dated 22 October 2007;*
- n) *Noise Monitoring Procedure Scheme by Vibrock Limited, scheme number SCH09.5921/1/TJW, dated 01.05.09;*
- o) *Second Revision to Noise Impact assessment dates 30th March 2016 by S & D Garritt Ltd*
- p) *Drawing 813101REV A dated July 2016 showing new access and road layout. "*

1.2 Condition 7 states:

"The maximum amount of inert materials accepted at the site shall not exceed 110,000 cubic metres less the volume of material imported and retained under planning permissions 2007/1365 , 2011/1248 and 2015/0823 and 2016/0068. A written record shall be kept by the operator of the amounts and type of material accepted on a daily basis. These records shall be made available to the WPA for inspection on request and all such records shall be retained for at least 2 years."

1.3 The variation sought is to increase the amount of materials to be imported to the site to a maximum level of 117,000m³, such that the condition reads as follows:

The maximum amount of inert materials accepted at the site shall not exceed 117,000m³. A written record shall be kept by the operator of the amounts and type of material accepted on a daily basis. These records shall be made available to the WPA for inspection on request and all such records shall be retained for at least 2 years."

1.4 Condition 24 states:

"The development shall be carried out in full accordance with the approved Remediation Strategy, Revision 3 - April 2009. Interim validation reports shall be submitted to, and approved in writing by, the WPA on a 6 monthly basis. The reports shall include but not be limited to, information on the type of material imported, its origin, sample analyses (as indicated in level 2 compliance point 8.13 of the approved Remediation Strategy) and WAC analyses to categorise the waste. "

1.5 The variation sought is the is to replace the 2009 Remediation Strategy with the 2019 Enabling Works Remedial Implementation Plan, such that the condition reads as follows:

"The development shall be carried out in full accordance with the approved Enabling Works Remedial Implementation Plan dated 30 September 2019."

1.6 Condition 25 states:

"Landscaping of the site shall be carried out in accordance with the approved plan number DTS/B/292/1b. All planting and seeding as approved shall be carried out in the first available planting and seeding season. Any trees or shrubs planted as part of the scheme which are removed or, in the opinion of the WPA, become severely damaged or are found to be dying or seriously diseased within five years of planting shall be replaced within the next available planting season with trees or shrubs of a similar size and species to the satisfaction of the WPA."

1.7 The variation sought is the variation of this condition to replace the approved scheme with a new scheme to be submitted within 3 months of the date of this permission, such that the condition reads as follows:

"Within 3 months of the date of this planning permission a landscape scheme for the whole site shall be submitted to, and approved in writing by, the Planning Authority.

This scheme will include the following components:

- a) The treatment of the sub-soil surface;*
- b) The spreading and cultivation of soils or soil making materials;*
- c) Landscaping including details of tree/shrub planting, grass seeding and maintenance; and*
- d) A timetable for the implementation of the scheme."*

2. SITE DESCRIPTION

2.1 The site is located to the south of Shaw Lane between Carlton and Shafton, and is bounded to the west by a field with a bakery beyond. On the east side is a railway line with the Trans-Pennine Trail between the railway and the site boundary. To the south

is the reclaimed colliery tip. The only nearby dwellings are those immediately to the north of the site on Shaw Lane. The site surroundings are shown on drawing 10103/05C.

- 2.2 The area between Shaw Lane, the dwellings and the site is in agricultural use, with a small sewage works located adjacent to Shaw Lane.
- 2.3 To date, all of the red shale and the ash has been excavated, with the ash washed to recover fuel. Extensive buried brick walls and foundations have been uncovered and removed, as these would have impeded the future development of the restored site.
- 2.4 The pond which is required by the restoration scheme has been formed within the northern part of the ash and red shale excavation. It is currently used as a source of water for dust control.

3. DEVELOPMENT DESCRIPTION

- 3.1 The reason for the delay in completion of the remediation works has been the time taken to complete the Barnsley Local Plan, which was adopted in 2019. The Planning Authority had commenced preparation of the Local Plan prior to 2014, which lead to uncertainty regarding the use to which the Site could be put in the future.
- 3.2 The 2006 approved remediation strategy had been based on future use for industrial development. The 2019 Local Plan subsequently allocated the Site as part of a mixed use development involving both housing and green space development. A residential use requires a much higher standard of remediation than does an industrial use. Until the Local Plan was adopted in 2019, the future use and hence the remediation standard required was uncertain. As soon as it became clear that a residential standard would be required, the Applicant moved to have the appropriate remediation strategy prepared.
- 3.3 An additional delay to commencement has been caused by the failure of Barnsley Council as the Highways Authority to approve a Section 278 Agreement covering the construction of the new access arrangements consequent on the 2018 planning approval (see paragraph 3.4 below). The S278 application was first submitted in November 2017 and the Applicant is still awaiting approval. The new access construction cannot begin until the S278 agreement is completed.
- 3.4 AA Environmental Limited (AAe) were therefore commissioned by the Applicant to develop a Remedial Implementation Plan (RIP) for the former Carlton Colliery. The RIP has been developed in accordance with the Model procedures for the management of land contamination (CLR11). The proposed works are to be

implemented in the enabling works phase in advance of the site being brought forward for residential development.

- 3.5 The site has been subject to a number of previous ground investigations. It was initially investigated by Fennell, Green and Bates (FGB) in March 2006 and subsequently by Cromwell Wood in April 2006. These investigations identified elevated levels of arsenic, lead, nickel and Poly Aromatic Hydrocarbons exceeding residential criteria. As a result of these investigations, and in advance of development, a Remedial Plan was proposed for the site's development in 2008. This plan was submitted for planning approval as part of an enabling works and included revised levels.
- 3.6 The site is now to be restored and developed as part of a residential led land use that extends to the north and south of the site. As part of these development works and to provide a greater understanding of the characteristics of the Made Ground, the site has been the subject of further investigation and remedial works completed in a limited section of the north of the site.
- 3.7 Following the 2019 AAe investigation and a review of the 2008 Remedial Plan, the Applicant has requested that AAe undertake an update of the former Remediation Plan to ensure it is in keeping with contemporary standards. In addition, a proposed variation to the levels is proposed to ensure that the final landform can be suitably developed following these enabling works.
- 3.8 it should be noted that the Fennell Green and Bates restorations levels shown on approved drawing DTS/CC/2006/REST 03 were not matched to the surrounding external levels, and were as much as 5m lower than should have been the case. This case be clearly seen by comparison with Drawing 173367/RIP/D/006.
- 3.9 This revised RIP, summarises the key contamination risks at the site and provides a framework for the completion of the development platform across the site, up to the formation layer. The plan extends to all land remediation and landscaping up to the underside of any proposed hardstanding and/or soft landscaping for the future residential development. The details relating to the quality of the final landscaping will be set out in a future planning application for the use to which the Site will be put.
- 3.10 The Applicant currently has a Bespoke Environmental Permit (EPR/BB3103FE) for the use of waste in a deposit for recovery operation (Construction, reclamation, restoration or improvement of land other than by mobile plant). This was to cover the import of suitable wastes for capping the site. Under the remediation plan set out in Appendix 1, there will be a requirement to vary the permit to allow the addition of on-site processing and treatment of existing waste colliery and construction waste deposits for the

purpose of recovery. This application for a permit variation will be pursued separately with the Environment Agency in support of the remediation plan.

3.11 The quantities of materials which will be required to be imported to the Site to enable the proposed levels to be realised are set out in paragraphs 4.10 to 4.11 and Table 4.1 of the Remedial Implementation Plan (Appendix 1). The materials set out in the Table are estimated and provided for indicative purposes only, and are set out as follows:

- 1) Materials in existing stockpiles which have either been derived from site works or previously imported to the site amount to 85,000m³, of which 70,500m³ is suitable for reuse on site and 14,500m³ is unsuitable and will have to be removed off site. Some of this material was imported before the Applicant purchased the site.
- 2) Existing made ground within the Site requiring excavation is estimated at 75,000m³, of which 24,000m³ can be treated and reused on site and 51,000m³ is unsuitable and will have to be removed off site.
- 3) 117,000m³ of suitable material will need to be imported and treated for use on site.

It is anticipated that treatment of the onsite and imported material will generate over 45,000m³ of aggregate which will be stockpiled on site awaiting use in the future development of the Site.

3.12 In summary, 117,000m³ of material will require importation and 65,500m³ will require removal off site.

4. PLANNING HISTORY

4.1 Planning permission to reclaim the site for a beneficial use was initially obtained under reference 2007/1365 in October 2008. The permission was renewed in July 2013 for a further 2 years under reference 2011/1248.

4.2 Permission for the removal off-site of red shale and ash was granted under reference 2009/1353 but expired in April 2011. A new application was submitted in June 2014 and permission for the recovery of red shale and ash with ancillary activity was granted under reference 2013/1339 dated 17 December 2014.

4.3 A further application to vary conditions 3 and 6 of 2015/0823 was submitted in January 2015, covering revised access arrangements and an increase in the number of HGV movements permitted. Permission was granted dated 30 July 2016 under reference 2016/0068 with condition 1 setting the date for completion as 2 November 2017.

- 4.4 Condition 26 required prior approval for highways improvements. An application to discharge this condition was submitted in January 2017 and approved under reference 2017/1401 dated 20 April 2018. This permission is the subject of this application to vary its conditions.

5. PLANNING POLICY

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the statutory development plan consists of the adopted Barnsley Local Plan adopted in 2019. The Courts have also held that the Government's statements on planning policy are material considerations which must be taken into account in reaching decisions on planning applications where relevant. The National Planning Policy Framework 2019 (NPPF), is also important material consideration.

- 5.2 The relevant policies are those contained in the Barnsley Local Plan (2019) and providing the proposal is in accordance with the Local Plan, Section 38(6) of the 2004 Act would indicate that planning permission should be granted for the variations sought

The Barnsley Local Plan

- 5.3 The Local Plan in Policy H1 seeks to achieve the completion of at least 21,546 net additional homes during the period 2014 to 2033. This is to be achieved through a number of specific allocations for housing development and additional mixed use sites, including Site MU3 (Land off Shaw Lane Carlton) of which this Site is part.

- 5.4 Site MU3 sets out a number of expectations as follows:

This site is proposed for mixed use for housing and green space. The indicative number of dwellings proposed for this site is 1683. These are included in the Housing figures for Urban Barnsley in the Housing chapter.

The development will be subject to the production of a phased Masterplan Framework covering the entire site to ensure that development is brought forward in a comprehensive manner.

The development will be expected to:

- *Retain areas of woodland, not affected by the road. Should any part of the existing Wharncliffe Woodmoor green space be developed, an area of compensatory biodiversity-value green space of equivalent size should be created on the land within site MU3 to the east of the existing Wharncliffe Woodmoor green space.*

Compensatory areas will need to be linked to Wharncliffe Woodmoor by wildlife corridors;

- *Provide access from Far Field Lane roundabout;*
- *Provide off site highway works;*
- *Retain the higher ecological value habitats in the southern part of Wharncliffe Woodmoor green space, together with the water courses in the centre of the site with a buffer;*
- *Provide robust measures to mitigate ecological impact where the construction of the access road impacts upon the southern part of the site which has high ecological value and in particular woodland blocks;*
- *Provide robust mitigation measures to mitigate against noise, odour and other potential impacts arising from the existing industrial operations at Manor Bakeries and Boulder Bridge;*
- *Provide small scale convenience retail and community facilities in compliance with Local Plan policy TC5 Small Local Shops; and*
- *Avoid locating built development in parts of the site within flood zone 2 and 3."*

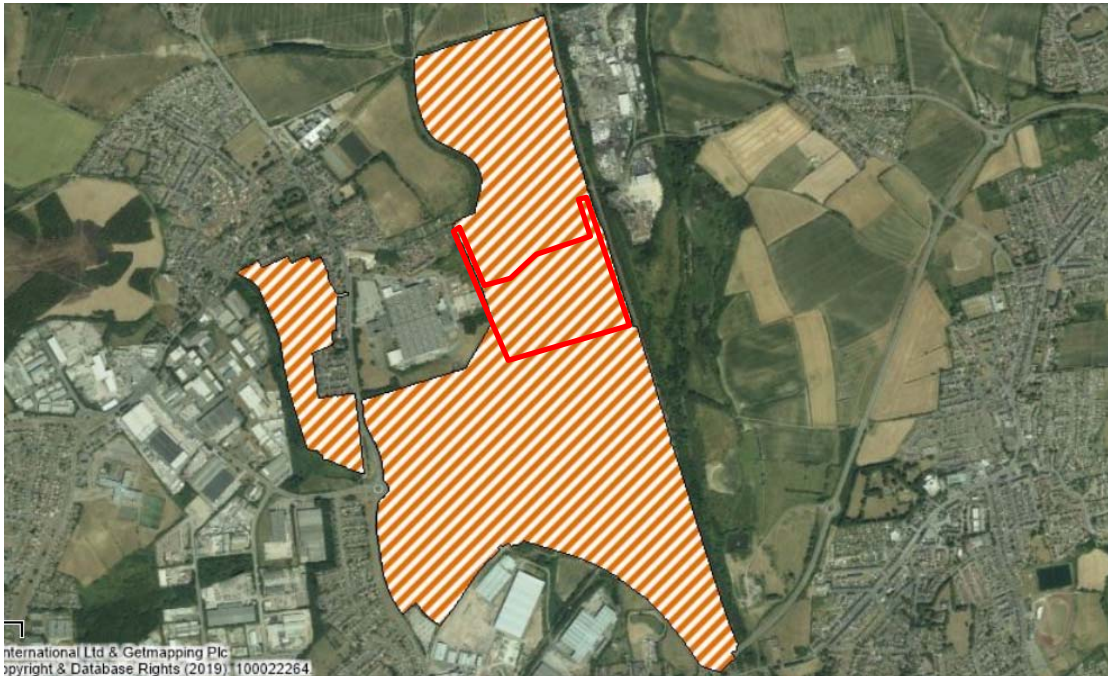
5.5 In addition, the Local Plan notes in paragraph 10.6 that The following areas of higher ecological value habitats are of particular importance and should be retained. These are:

- *The grassland just South of Shaw Lane, near the centre of the site;*
- *Boundary vegetation in the northern portion of the site;*
- *Grassland in the very north east;*
- *Retain a Wildlife corridor running down the eastern side of the site; and*
- *Buffer and preserve the habitats of higher ecological value in the part of the site to the east of the existing Wharncliffe Woodmoor POS. These areas include:*
 - *The western and eastern boundaries of this part of the site including the stream and woodland; and*
 - *The stream corridor that crosses the north western section of this part of the site.*

5.6 The Masterplan Framework has not yet been prepared, but as the remediation works could take up to 3 years to complete, it will be necessary to commence the remediation works as soon as possible.

5.7 With regard to the Site and its fit with the above criteria, it should be noted that it is located entirely within Flood Zone 1 and that it does not include any of the existing green space or habitats that should be protected.

- 5.8 The proposed reclamation strategy will deliver a site capable of development for housing and therefore accords with the Development Plan.
- 5.9 An extract from the Local Plan Policies Map is included below with the Site shown with a red boundary line.



6. ENVIRONMENTAL IMPACTS

- 6.1 The environmental impact of the proposed changes to the existing planning permission is limited to that arising from the extended time period, including the potential for additional lorry movements. However it is intended to manage the development within the maximum limit of 120 HGV (60 in and 60 out) set by condition 8 of permission 2017/1401.
- 6.2 As the development has not progressed by any significant amount, the bulk of the development still has to take place. Instead of the impacts taking place over a two year period, they will be experienced over the three year period from the date this Application is approved.

7. CONCLUSION

- 7.1 All planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Government statements on planning policy are also material considerations which must be taken into account where pertinent.

MWP Planning

- 7.2 This planning application seeks to vary the existing planning permission to incorporate a remediation strategy that can accommodate a residential use rather than the approved remediation to an industrial standard. The other variation sought are subsequent on this variation. The entire development remains classed as sustainable development and is fully in accordance with both National and local planning policies.
- 7.3 The environmental impacts arising from the development can be successfully mitigated and would not be significant in overall terms. Planning permission has already been granted and so the principles of the proposed development have already been accepted by the Planning Authority. It is therefore respectfully requested that planning permission be granted to enable the development to take place.