



Department for
Communities and
Local Government

Ms Katherine Morgan
DTZ
St. Pauls House
23 Park Square South
Leeds
LS1 2ND

Our Ref: APP/J4423/W/15/3004677

28 July 2015

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78
APPEAL BY GEO. HOULTON AND SONS LTD – UNIT 6, HYDRA BUSINESS PARK,
NETHER LANE, ECCLESFIELD, SHEFFIELD S35 9ZX
APPLICATION REF: 14/03411/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Louise Crosby MA MRTPI, who held a hearing on 19 May 2015 into your client's appeal against the refusal of Sheffield City Council ('the Council') to grant full planning permission for the change of use from distribution centre/warehouse to post-16 school with associated alterations to external works, in accordance with application ref 14/03411/FUL, dated 4 December 2014.
2. On 14 May 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990. The reason for this direction is that the appeal involves proposals for development of major importance having more than local significance.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy considerations

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Sheffield Unitary Development Plan (UDP) 1998 and the Sheffield Core Strategy 2009 (CS). The Secretary of State considers that the most relevant policies to this appeal are those listed at IR5-8 and IR10.

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5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (The Framework), the associated planning practice guidance issued in March 2014, and the Ministerial Statement on planning for schools development referred to at IR16. Also for consideration is the Sheffield Employment Land Review 2013 (ELR), which analysed in detail what employment land was available compared to what was considered to be the need. It is currently being brought up to date with a new review that will inform the emerging Local Plan (IR12).
6. The Secretary of State notes that a new Local Plan is being prepared but that this is still at an early stage. As the emerging Plan is liable to change, the Secretary of State agrees with the main parties in this case that its relevant policies carry little weight (IR11).

Main issues

National policy

7. The Framework states that development proposals should be approved without delay where they accord with the development plan (IR13) and also advises against the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose (IR14). The Framework states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and advises that great weight should be given to the need to create, expand or alter schools (IR15). A Ministerial Statement issued in 2011 entitled *Planning for schools development* advises that 'the answer to proposals for the development of state-funded schools should be, wherever possible, "yes" ' (IR16). In this case the Secretary of State gives considerable weight to the educational benefits of the proposal going ahead.

Whether the proposal would undermine the Council's local plan policies that seek to protect employment land and uses in this area

8. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR97-108. The appeal site is located in an industrial area designated by CS policies. However the proposal would accord with UDP policies which allow for other acceptable uses in these areas including community facilities and institutions, subject to relevant criteria which, for the reasons given, are met in this case (IR108).

The effect of the proposal on the ability to attract heavier industrial type employment uses to the surrounding area in the future

9. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR109-112 regarding noise issues and effect of the proposal on the ability to attract heavier industrial type employment uses to the surrounding area in the future. For the reasons given he agrees with the Inspector's conclusion that the proposal would not conflict with the Core Strategy regarding this matter (IR112).

The effect of the proposal on pedestrian safety

10. For the reasons given at IR113-119, the Secretary of State agrees with the Inspector's conclusions at IR120. While the situation is not ideal, on balance, safe pedestrian access to the Academy would be available and the proposal would accord with UDP Policy T28 (IR120).

Conditions

11. The Secretary of State has considered the Inspector's assessment on the proposed planning conditions at IR91-95. He is satisfied that conditions proposed by the Inspector and set out at Annex A of the IR meet the tests of Paragraph 206 in the Framework and comply with the planning practice guidance.

Overall conclusion

12. The Secretary of State concludes that the proposal accords with the development plan. The Framework states that development proposals should be approved without delay where they accord with the development plan. It also says that great weight should be given to the need to create, expand or alter schools, as is the case with this proposal.

Formal decision

13. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeal and grants planning permission for the change of use from distribution centre/warehouse to post-16 school with associated alterations to external works, in accordance with application ref 14/03411/FUL, dated 4 December 2014, subject to conditions set out at Annex A of this letter.
14. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
15. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

16. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
17. A copy of this letter has been sent to Sheffield City Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

JULIAN PITT

Authorised by Secretary of State to sign in that behalf

ANNEX A

Conditions applicable to planning application reference 14/03411/FUL:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Noise Report and Contaminated Land Report.
Drawing Nos:
302 P1
303P1
401P1
200P3
202 P7
- 3) Prior to commencement of development full details of the proposed servicing arrangements and times (including for example delivery of Academy dinners) shall have been submitted to and approved in writing by the Local Planning Authority, and thereafter adhered to.
- 4) Prior to the occupation of any part of the development hereby approved a detailed Travel Plan, designed to reduce the need for and impact of motor vehicles; and to facilitate and encourage alternative travel modes, shall have been submitted to and approved in writing by the Local Planning Authority. The Detailed Travel Plan shall be developed in accordance with the principles set within the Framework Travel Plan submitted for the development. On occupation the approved Travel Plan shall thereafter be implemented.

The Travel Plan shall include:

1. Clear and unambiguous objectives and modal split targets;
 2. An implementation programme, with arrangements to review and report back on progress being achieved to the Local Planning Authority in accordance with the 'Monitoring Schedule' for written approval of actions consequently proposed;
 3. Provision for the results and findings of the monitoring to be independently verified/validated to the satisfaction of the local planning authority; and
 4. Provisions that the verified/validated results will be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets.
- 5) The Local Planning Authority shall be consulted with and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan, following the submission of progress performance reports as timetabled in the programme of implementation. All future owners/occupants of the site shall operate a Travel Plan and will adhere to the approved Travel Plan unless otherwise varied and agreed with the Local Planning Authority prior to occupation.

- 6) Prior to any external works to the building or existing site layout works commencing on site (excluding initial site mobilisation works), full details of the following shall have been submitted to and approved in writing by the Local Planning Authority, and the construction works shall only be progressed in accordance with the approved details:
- Construction method statement
 - Phasing of construction works
 - Locations of any temporary classrooms
 - Site safety and segregation
 - Any temporary site access for construction traffic
 - Location of site compound and temporary car parking arrangements for contactors
 - Haulage routes
 - Times when construction works and movement of construction traffic will be restricted (to avoid conflicts with student arrival/departure)
- 7) Notwithstanding the submitted plans, prior to the development becoming occupied, suitable and sufficient, secure and sheltered bicycle/motorcycle parking accommodation (plus storage/changing/shower facilities) shall have been provided in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the bicycle/motorcycle parking and shower facilities shall be retained/maintained for the sole purpose intended.
- 8) The development shall not be brought into use until all vehicle and pedestrian areas within the site shall have been surfaced, sealed and drained to the satisfaction of the Local Planning Authority prior to occupation.
- 9) The development shall not be brought into use until the car parking accommodation has been provided as indicated on the approved plans, surfaced, drained, illuminated and formally marked out to the satisfaction of the Local Planning Authority (including the pedestrian routes through the car park). The above-mentioned arrangements shall be used for the sole purpose intended, and shall be retained/maintained thereafter.
- 10) Prior to commencement of development a scheme of highway safety/improvement works along with an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed scheme and timetable.
- 11) Prior to the development becoming occupied and notwithstanding the submitted plans, details shall have been submitted to and approved in writing by the Local Planning Authority to show how the car parking accommodation will be managed and allocated between the office use and the educational use, including details of a revised entrance arrangement into the car park (gates and relocated waste receptacles to achieve two-way traffic). The agreed aforementioned details shall have been implemented prior to occupation of the development for the use hereby approved.
- 12) Prior to commencement of development, 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.

- 13) A comprehensive and detailed hard and soft landscape scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.
- 14) The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. The Local Planning Authority shall be notified in writing when the landscape works are completed. 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 five year period shall be replaced unless otherwise approved by the Local Planning Authority.
- 15) 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.
- 16) Details of the location, specification and appearance of all new services to the building (including air conditioning, ventilation, extract and odour control equipment and internal and external ducting) shall be approved in writing by the Local Planning Authority before installation.
- 17) Unless it can be shown not to be feasible and viable, within 8 weeks of the commencement of development a report which shall be submitted to and approved in writing by the Local Planning Authority identifying the strategy for providing a minimum of 10% of the predicted energy needs from decentralised and renewable or low carbon energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources or additional energy efficiency measures shall have been installed before any part of the development is occupied and a post-installation report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed. Thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.

This condition shall not preclude an agreement being reached with the Council for arrangements for an off-site carbon reduction scheme if it is demonstrated that it is not feasible to generate renewable or low carbon energy on site.

- 18) Prior to commencement of development all sound attenuation works detailed in the noise report carried out by Hepworth Acoustics (ref. 22357.0101, September 2014) shall have been implemented and thereafter retained in accordance with the details submitted to and approved by the Local Planning Authority.
- 19) Prior to commencement of development details of a suitable means of site boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be used unless the approved means of site boundary treatment has been provided in accordance with the approved details and thereafter such means of site enclosure shall be retained.

Report to the Secretary of State for Communities and Local Government

by Louise Crosby MA MRTPI

Date: 25 June 2015

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SHEFFIELD CITY COUNCIL

APPEAL BY GEO. HOULTON AND SONS LTD

REGARDING THE REFUSAL OF PLANNING PERMISSION

for

**CHANGE OF USE FROM DISTRIBUTION CENTRE/WAREHOUSE TO POST-16
SCHOOL WITH ASSOCIATED ALTERATIONS TO EXTERNAL WORKS**

at

**UNIT 6, HYDRA BUSINESS PARK, NETHER LANE, ECCLESFIELD, SHEFFIELD,
S35 9ZX**

Hearing held on 19 May 2015

Unit 6, Hydra Business Park, Nether Lane, Ecclesfield, Sheffield, S35 9ZX

File Ref: APP/J4423/W/15/3004677

File Ref: APP/J4423/W/15/3004677

Unit 6, Hydra Business Park, Nether Lane, Ecclesfield, Sheffield, S35 9ZX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Rob Mann against the decision of Sheffield City Council.
- The application Ref: 14/03411/FUL, dated 4 December 2014, was refused by notice dated 8 January 2015.
- The development proposed is change of use from distribution centre/warehouse to post-16 school with associated alterations to external works.

Summary of Recommendation: The appeal be allowed and planning permission granted subject to conditions.

Procedural Matters

1. This appeal was recovered for decision by the Secretary of State for Communities and Local Government, by letter dated 14 May 2014. This is because the appeal involves a proposal for development of major importance having more than local significance. The guidelines for 'recovering' appeals are to be found in the House of Commons Hansard Ministerial Statement of 30 June 2008 and these were amended by Ministerial Statement on 10 July 2014.

The Site and Surroundings

2. The appeal site, which is around 1ha in size, is located within the Hydra Business Park close to other industrial and business parks, but also residential development. Unit 6 is located at the end of the no-through road that links this business park with Nether Lane. It consists of a large double height warehouse/distribution centre, an attached 3 storey office building and a car park/forecourt. The modern building is metal clad and in a good state of repair. The office building does not form part of the appeal proposal.
3. There are a variety of other uses within this particular business park, including a HGV storage and repair centre, a day nursery and soft play centre, offices and a furniture manufacturer with a trade counter.
4. To the east of the site is a railway line, agricultural land lies to the north and west and residential development to the south. The site is around 1.4km from the M1 motorway. There are footpaths on both sides of the road leading from the appeal site to Nether Lane where there are bus stops.

Planning Policy

Development Plan

5. Saved policy IB5 of Sheffield Unitary Development Plan (UDP) 1998 seeks to guide development in general industrial areas. The policy identifies preferred uses (General Industry and Warehouses) together with those uses which would be considered unacceptable. Cross reference is made in the policy to policies IB8 and IB9. IB8 lists sites where preferred uses set out in policies IB5, IB6 and IB7 will be permitted, provided they comply with policy IB9. This site is not in the list.
6. IB9 is a criteria based policy which seeks to guide new development in industry and business areas such as this one. It sets out the circumstances in which new

development or change of use will be permitted. This includes (a) where the development will not lead to a concentration of uses which would prejudice the dominance of industry and business in the area or cause the loss of important industrial sites; (c) be well designed with buildings and storage of a scale and nature appropriate to the site; and (f) be adequately served by transport facilities and provide safe access to the highway network and appropriate off-street parking.

7. Policy IB12 covers training centres and community facilities in industry and business areas. Policy CF1 deals with the provision of community facilities to all.
8. BE10 covers the design of streets, pedestrian routes, cycleways and public spaces; T8, pedestrian routes; T10 cycle facilities and T28 transport infrastructure and development.
9. The National Planning Policy Framework (the Framework) at paragraph 215 indicates that due weight should be given to relevant policies in the development plan in accordance with their degree of consistency with the Framework. These policies are all broadly consistent with the Framework.
10. Sheffield Core Strategy 2009 policy CS 1 deals with land for employment and economic development. CS 5 identifies locations for manufacturing, distribution/warehousing and other non-office businesses and CS 32 covers jobs and housing in Chapeltown/Ecclesfield. Policy CS 43 deals with schools. Policies CS 51 and CS 53 deal with transport matters. Again, these policies are all broadly consistent with the Framework.
11. The City Policies and Site Pre-Submission Draft Plan 2013 was withdrawn by the Council, just prior to submission for examination. The Council has started work on a new Local Plan. Policy H1 of the Pre-Submission Draft Plan refers to land uses in policy areas. It was agreed at the hearing that the policies in this Pre-Submission Plan carry little weight.

Other local policy document

12. Sheffield Employment Land Review 2013 (ELR) was completed by the Council in 2013. This analysed in detail what employment land was available compared to what was considered to be the need. It is currently being brought up to date with a new review that will inform the emerging Local Plan.

National Policy

13. Government guidance set out in the Framework states that development proposals should be approved without delay where they accord with the development plan. One of the core planning principles is to 'take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs'.
14. The Framework also advises against the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose and that in such cases applications for alternative uses should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities. Paragraph 32

advises, among other things, that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

15. In terms of schools it advises that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. It advocates a collaborative approach to meeting this requirement, and to development that widens choice in education and advises that great weight should be given to the need to create schools.
16. A Ministerial Statement issued in 2011 (Policy statement – planning for schools development), is also highly relevant in this case. It states the Government's commitment to ensuring that 'there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state-funded education and raising educational standards'. This includes free schools like the one before me. It advises that 'the answer to proposals for the development of state-funded schools should be, wherever possible, "yes"'.

Planning History

17. Hydra Business Park was granted planning permission in 2001. This particular unit was granted planning permission in 2002. Two floors of the existing office building that is not part of the appeal proposal, have been temporarily converted to a free school for aged 16+ pupils under Class C of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. It is known as Chapeltown Academy and it opened in this building in September 2014. The office building will revert to office use at the end of the academic year (July 2015).
18. The appeal site was previously used for a distribution facility with associated offices and a vehicle workshop. This use ceased around July 2014¹. Marketing of the leasehold and freehold interest in the property commenced in March 2013 and lasted for 11 months. I shall cover this matter in more detail below.

The Proposal

19. The proposal comprises the conversion of a B8 warehouse/distribution centre, previously used by a road haulage business. It would create a 300 place free school for 16-19 year old students. The 2,500 sq m building is a modern warehouse (around 10 years old), constructed of a steel portal frame structure and composite sheet cladding, with rooflights, dock levellers and industrial doors. While the building is around 8m high, to the ridge, the school would be single storey within this volume.
20. Some external alterations would take place as part of the change of use, including re-cladding part of the building and the industrial doors and dock levellers would be replaced with new windows and screens. The area containing the industrial doors would be re-built using insulated concrete blocks that would be rendered and painted. Also, on the front elevation, a modest sized new single storey entrance extension would be constructed.
21. Internally the spaces would be created using lightweight partitioning with a soffit above. Ceiling heights would be designed to accord with the use of individual

¹ Letter from Hallam Express (document 3)

rooms, with the multi-purpose hall being the tallest, for example. Patio doors would be installed in the library and a seating area created outside for study during suitable weather.

22. A paved approach to the main entrance would be constructed with adjacent soft landscaping. The remainder of the external area would provide car and cycle parking facilities. Near the southern boundary a multi-use games area would be provided and this would be surrounded by 2.8m high perimeter fencing and contain floodlighting. The existing security building at the entrance would be demolished and new security gates and fencing erected to a height of 2.4m. The existing diesel fuel tanks and lorry washing facility would also be removed.

Agreed Facts and relevant matters

Statement of Common Ground

23. The appellant submitted a noise report and the findings are considered acceptable by both parties. The design of the development is acceptable. The findings of the Phase 1 Site Investigation Study submitted with the planning application are acceptable. The building has been vacant since July 2014, when Hallam Express, a haulage company vacated the premises. The site is within Flood Zone 1 according to the Environment Agency's Flood Map, which is land with the lowest probability of flooding.

The Case for the appellant

Statement of case for the appellant prepared by DTZ, and oral evidence of Katharine Morgan, William Steel, Stephen Miles, Steven Windass, Catherin Seddon, Rebecca Maxted, Anton Van Zyl and David Simpson.

Policy considerations, including whether the dominant use within the Hydra Business Park would still be B2/B8

24. The UDP defines dominance and advises that when assessing dominance an area of 10ha should be selected and for the ground floor area of both existing and committed development to be considered.
25. In order to apply this test we have delineated the 'area' to be that as defined as Hydra Business Park, bounded by Nether Lane to the west, the rail line to the east, and the boundary of the industrial area designation in the saved UDP policy. This area comprises approximately 10ha.
26. Based on the full list of rateable properties provided by the Valuation Office Agency, of the current occupiers on site, there are only three premises that are not classified as employment land use (i.e. B1/B2/B8):
- Chapeltown Academy – 660 sq m Net Internal Area (NIA)
 - Independent Cars Ltd – 858 sq m NIA
 - Unit 8 (a play centre) – 695 sq m NIA
27. These 3 properties together total 2213 sq m. According to the latest rating list, the total net internal area of all properties listed for Hydra Business Park is 33,000 sq m. Therefore currently, non employment land uses represent approximately 7% of all commercial floor space. Allowing a change of use of the

appeal property would result in this percentage increasing to 14%. Therefore the appeal scheme would not affect the dominance of industry and business uses at Hydra Business Park and would not prejudice either the future acceptability or attractiveness for industrial uses.

28. A document produced at the hearing by the appellant² lists the preferred and acceptable uses defined by policy IB5 as well as important industrial sites set out in the policy. Accompanying plans show the split between preferred and accepted uses, assuming the appeal is allowed, and based on 2 scenarios. These scenarios are for the larger study area preferred by the appellant and the smaller study area preferred by the Council. Based on the larger area the preferred uses would account for 82% of the total area and based on the smaller area 51%.
29. The ELR presents an inflated picture of quantitative need and implies that there is an over-supply of employment land in this location and proposes a 'rebalancing' of the portfolio of land towards the strong demand areas with releases of land within the Chapeltown/Ecclesfield area. It suggests that the City could require in the order of 305ha gross between 2013 and 2031. This level is above the average rate of completions (14ha per annum) when projected over a 15 year local plan period (210ha). This potential requirement has not been subject to independent examination and does not have any relationship to the Council's adopted policy position as set out in the Core Strategy which specifies the need for a five year supply of employment land.
30. CS policy CS1 states that there is a need to retain a 5 year supply of employment land at all times. It says that this should consist of 145ha of suitable B1b/B1c (25ha) and B2/B8 (100ha) land. This figure is actually substantially in excess of a five year supply based on average annual completions (at 14ha per annum this equates to just over 70ha over five years, so less than half the stated requirement in the CS), and above even that which the ELR recommends (the ELR at para 8.59 recommends a 'rolling five year requirement' of 85ha).
31. The ELR indicates that there is approximately 128ha of land in the 'five year supply'. Whilst this is 17ha short of the stated 5 year requirement in the CS, it is actually well in excess of both the actual five year supply based on long term average take up levels and the rolling five year supply recommended by the ELR. Further, the ELR states that in allowing for 'emerging allocations' in this Draft City Sites DPD there is actually a total of 300 gross hectares of employment land 'considered to be available', thus substantially in excess of the stated CS requirement (para 6.32 and para 6.45 bullet 6).
32. Looking at the Chapeltown area specifically, the ELR implies that there is a surplus of employment land available stating that it has a 'disproportionately high amount of the city's employment land supply' (para 11.17). It states that there is a total of 37ha of employment land within the Chapeltown/Ecclesfield area across 11 sites, but acknowledges that demand within this location is only 'moderate' and questions whether the level of demand can justify this amount of availability (para 10.9). It proposes a rebalancing of the supply with releases of employment land in the Chapeltown area replaced by new allocations in 'strong' demand locations such as the City Centre and Don Valley.

² Document 12

33. In relation to Hydra Business Park itself, it is considered to be a less favourable employment location than the adjacent Smithywood (around 32ha), which is a designated Enterprise Zone site and as such benefits from a variety of occupier developer incentives which would be likely to have a greater appeal to occupiers and therefore absorb most if not all future market demand for new industrial floor space in this location. Therefore, based on long term average take up levels, the available evidence indicates that there is an adequate supply of employment land to meet both short and long term requirements and that specifically within the surrounding area of the appeal site, there is no shortage of land to meet needs.

Effect of the use on the attractiveness of the Hydra Business Park for B2 uses in the future

34. The planning application was accompanied by a noise report which found that the proposal would be acceptable in this location. There have been no issues for the school regarding noise from existing users, including the HGV repairs garage next door. Moreover, the school has developed a good relationship with other businesses and they are all supportive of the Academy being located in this business park. It should be noted that there are no letters of objection from any local businesses. It should also be noted that under policy IB5 the proposal is an acceptable use.

Pedestrian safety

35. Pedestrian access to the Hydra Business Park is via a footpath running along the eastern side of Nether Lane. This footpath links to an internal footpath which leads to the appeal site. The footpaths run alongside both sides of the Hydra Business Park road.
36. The range and number of vehicles using Hydra Business Park was assessed as part of a traffic survey undertaken on Monday 8 September 2014 during the typical AM network peak hour (08:00-09:00) at the Hydra Business Park access junction. Of the 110 two-way traffic movements (excluding pedestrians and pedal-cyclists) recorded on the access road during this peak hour, only one movement was made by a heavy commercial vehicle (HCV) (0.9%); all other traffic movements were generated by cars, vans, light commercial vehicles (LCV) and powered two-wheelers.
37. By way of context, traffic data provided by the Department for Transport (DfT, 2015) across a number of sites in Sheffield indicates that HCVs form approximately 4.3% of traffic on major roads (average for 2013 count data). It is acknowledged that the composition of traffic can vary considerably across different roads, with a typical HCV average in the range of 5% to 10%, but notably higher proportions of HCV traffic.
38. Whilst the character of Hydra Business Park is undeniably commercial, the survey recorded that the majority of traffic was generated by cars and LCVs. It is therefore considered that the range and number of vehicles using Hydra Business Park would have a minimal impact on pedestrian safety which could be successfully mitigated using the measures suggested.
39. The existing footpaths are currently in use for Chapeltown Academy and other businesses within Hydra Business Park. The footways run along both sides of the

internal access road. An initial 'hands up' survey undertaken as part of the development of a draft Travel Plan³ indicated that 16% of students currently walk to the Academy. While the footpaths are narrow, the carriageway is wider than normal at 8.3m and it contains traffic calming measures.

40. A road safety audit was undertaken for the appeal site and formed part of the planning application⁴. The results of the Audit and Travel plan informed a number of mitigation measures that could be secured by planning conditions. These include:
- Improvements to dropped kerbs and introduction of tactile paving at crossing points on the access road footways;
 - Imposition of restrictions on the arrangements and times for on-site servicing (e.g. before 7am), to minimise the potential for conflict between pupils travelling on foot and goods/service vehicles;
 - Improvements to vehicle and pedestrian areas within the site (i.e. to be surfaced, sealed and drained);
 - Accommodation works to street furniture, traffic signs, road markings and street lights; and
 - Various measures to control construction traffic movements in the interests of pedestrian/road safety.
41. The existing facilities and proposed mitigation measures would ensure that the development would not be detrimental to pedestrian safety and accord with policies IB9 and T8.

Marketing

42. Hydra Park properties appointed Knight Frank commercial property agents in March 2015 to market the leasehold and freehold interest in the property with a view to relocating the existing operations into more suitably sized premises. Details of the marketing campaign have been submitted⁵. Around 12 enquiries were received and these resulted in 2 viewings. This number is very low; one would expect a few viewings every month.
43. No formal offers were received for the property either on a freehold or leasehold basis. The feedback from those that made enquiries was that unit 6 was irregular in terms of its layout. The yard area was considered to be too large and the quantum of offices too great.

Benefits of the school

44. Chapeltown Academy offers a high quality academic education for children aged 16-19 years. Qualifications offered are A and AS Levels. The Academy would employ 25 full-time members of staff when at capacity.
45. The rationale for the provision of the Academy is to:

³ Document 1

⁴ Document 1

⁵ Document 1

- Increase aspirations to attend the world's best universities, and boost attainment at A-Level through the provision of high-quality academic courses taught by passionate and enthusiastic teachers;
- Deliver a first-class yet diverse programme of extra-curricular opportunities so that students are able to realise their potential outside of the classroom as well as within it;
- Prepare students to be professionals by equipping them with an advanced set of 'soft skills' which are highly sought after by leading employers and will enable success in the world of work;
- Provide a close-knit, considered pastoral support network within the framework of the Academy to assist and support the transition from GCSE to A-Level, and then from A-Level to their destinations beyond.

Relevant case law/appeal decisions

46. A recent appeal decision⁶ for the change of use of existing buildings from employment and leisure to educational use at Southwell Business Park, Dorset is relevant to the appeal site. In determining that appeal the Inspector found: 'the educational benefits of the scheme, the emphasis the Government places on raising educational standards and its strong support of the development of state-funded schools is sufficient to outweigh concerns that have been expressed and the limited conflict with the LP'.

The Case for Sheffield City Council

Statement of case prepared by the Council's planning officer and oral evidence of Simon Tucker, Richard Holmes and Howard Smith

Policy considerations, including whether the dominant use within the business park would still be B2/B8

47. The appeal site is located in a General Industry Area as designated in the UDP. Policy IB5 of the UDP 'Development in General Industry Areas' states that in General Industry Areas the preferred use will be General industry and Warehouses. The appeal site is more particularly identified in the UDP as being located within an Industrial Area with Special Industries. In such areas open storage and scrapyards will be acceptable, whereas in other General Industry Areas these will not be acceptable as they are likely to cause environmental problems for other neighbouring businesses. The appeal site, or any other unit on the Hydra Business Park, would therefore be an acceptable location for open storage use or as a scrap yard.
48. Policy IB5 confirms that in all General Industry Areas, community facilities and institutions will be considered an acceptable use, subject to compliance with other policies including policy IB9. As the appeal proposal would fall within the use class relating to community facilities and institutions, then the proposal is deemed 'acceptable' in this regard. However, the use is not a preferred use and therefore the matter of the dominance of preferred uses and the impact of this

⁶ Appeal Ref: APP/P1235/A/13/2204886

upon the General Industry Area needs to be considered, as per the provisions of policy IB9 of the UDP.

49. Policy IB9(a) requires preferred uses to be dominant in the area. The methodology for determining dominance is set out in Appendix 1 of the UDP, and requires preferred uses to make up at least half of the area. Dominance is defined as:
50. *"A level of development sufficient to help secure an adequate supply of the preferred land use (or uses) for City-wide needs in appropriate locations and to establish or maintain the distinctive character and role of the Area. This will usually mean that non-preferred uses do not occupy more than half of the Area."*
51. The methodology requires an assessment of up to 10ha. The General Industry Area must therefore be subdivided for the assessment of dominance (because the entire area exceeds 10ha). This would result in the Hydra Business Park being assessed on its own for dominance as a Sub-Area (the northern 'triangle' that includes the appeal site in the far south-eastern corner as identified edged purple on the plan attached at Appendix One of the Council's appeal statement).
52. This Sub-Area therefore excludes Provincial Park to the south, as this would result in an area for assessment of 11.5ha and therefore too large to be used as a Sub-Area. The Council consider that the Sub-Area has been appropriately delineated because there is a clear physical separation between the north and south in the form of a permanent fence that results in a physical divide that makes it appropriate to divide the policy area here in accordance with the UDP methodology. Within this Sub-Area 60% of uses are non-preferred, contrary to policy IB9 (a) and therefore granting permission for the appeal proposal would make this situation worse.
53. The methodology used by the appellant to assess dominance is incorrect and does not comply with that set out in the UDP. To illustrate the error, the appellant refers to the area used as 'approximately 10ha' when it is, in fact, 11.5ha. There is a clear physical separation between the north and south of the area that makes it appropriate to divide it, in accordance with the UDP methodology which is what the Council has done (as explained above). A further error is introduced by the appellant including B1 development in the assessment, when it is not a preferred use. Their assessment in this regard therefore cannot be relied upon.
54. The appellant makes reference to UDP policy IB8 as the source of information on 'important industrial sites'. This was a list of strategic employment sites as of 1998 (when the Plan was prepared) and is now of limited relevance and reference to such is therefore misleading.
55. The appellant argues that CS policy CS1 which says, *'sites will be released for alternative uses where industry or business would no longer be appropriate'* supports their case. This element of the policy is, in the Council's view, not relevant, as the appeal site is particularly suitable for industry.
56. Policy CS32 'Jobs and Housing in Chapeltown and Ecclesfield' states that business and industrial development will be located at Thorncliffe, Ecclesfield Common and Smithywood on brownfield land. The appeal site is located at Ecclesfield Common.

57. CS5 'Locations for Manufacturing, Distribution/Warehousing and other non-office businesses' states that these uses will be located in several areas including Chapeltown and Ecclesfield. The appeal site is located in Ecclesfield.
58. The Core Strategy, bolstered by the previous designations of the UDP reiterates the importance of Ecclesfield and Ecclesfield Common to provide for the city's manufacturing, distribution and warehousing needs. This is evidenced by policies CS5d and CS32, and is also reflected in the proposed Business and Industrial Area designation in the draft City Policies and Sites Development Plan Document which, although not submitted for examination, will inform the Council's new Local Plan.
59. The loss of a site for manufacturing/distribution/warehousing in an area where this use is sought and identified as a preferred location would be detrimental to the aims of Policies CS5d and CS32 in the Core Strategy. This is supported by the ELR, which concludes that *"The City has a shortfall of available employment land in quantitative terms"* (paragraph 11.14), *"The Council should adopt a proactive approach to managing and improving the existing portfolio of employment sites to facilitate future growth"* (paragraph 11.27).
60. Specifically regarding the Hydra Business Park, the vacant site adjoining the appeal site (identified edged yellow on the plan attached at Appendix One of the Council's appeal statement) was assessed for its suitability for retention for industrial use (see site reference number P00261 in Table 9.4 and Appendix 3). The conclusion of the ELR was that this adjoining site should be retained for B1/B2/B8 uses. It scored well in all categories of assessment, particularly in terms of adjoining uses and access.
61. It was considered to have good attractiveness to the market and scored 25 out of a maximum 35 for suitability. The ELR was carried out in recognition of the requirements set out in the Framework (paragraphs 158, 160 and 161) to ensure that an assessment of employment needs was undertaken to account for current economic and market signals and to demonstrate that the Council have a clear understanding of business needs.
62. The ELR did not identify the appeal site as at that time it was not a vacant site that could have contributed towards the supply of employment land to meet requirements. However, the fact that the ELR included the vacant site adjoining the appeal site and valued it highly shows that the appeal site is appropriate for retention for business and industrial uses. Moreover, the ELR recommends that nearly all sites in the area are retained for employment use as they are required to meet employment land needs when the city is short of space.
63. Although the ELR has not been tested at a Public Inquiry, it was produced by consultants with its purpose being to inform a review of the Local Plan. The main reason for commissioning the ELR was to inform the proposed allocations that were set out in the draft City Policies and Sites document.
64. The approach taken by the Council is supported by the Framework. Paragraphs 20 and 21 make it clear that local planning authorities should plan proactively to meet the development needs of business, identify sites to meet needs, support existing business sectors and, crucially, identify priority areas for economic regeneration.

65. Demand for B-Class uses at the Hydra Business Park has been demonstrated by the recent planning permission granted by the Council under reference 13/01335/FUL on an adjoining site (this is the unit accessed off Hydra Way that can be seen on the plan attached at Appendix One of the Council's appeal statement covering part of the identified adjacent site edged yellow). This application saw the approval, subject to conditions, of an "Industrial unit with associated office accommodation (Use class B1b, c, B2 and B8), access road and ancillary car parking accommodation" on 24/7/2013. This development has now been constructed and is occupied by Marvel Press.
66. The appellant submitted an Employment Property Assessment with the planning application in order to support their claim that there is no need for the appeal site to be retained as a warehouse and distribution use. The Council does not accept the claims made in this Assessment, most particularly the suggestion that the ELR indicates there is a surplus of employment land. This is not correct. Ultimately the Council consider that the ELR makes it clear that the requirement for employment land in Sheffield is greater than the amount of land identified in the study.
67. In relation to Enterprise Zones, these are city region wide (whole of south Yorkshire) and they are intended to promote modern manufacturing. While it is accepted that this is a secondary location there is still demand for units in such area. There is also still a need for employment sites outside Enterprise Zones.
68. On this basis it is clearly the case that the appeal proposal would be contrary to policies IB5 and IB9 (a) of the UDP and would not help deliver the aims of CS policies CS5d and CS32. These policies are supported by the Framework, particularly paragraphs 156 and 157 that require policies to deliver jobs needed in the area, allocate sites to promote development and identify areas where it may be necessary to limit the freedom to change the uses of buildings.
- The effect of the proposal on the attractiveness of the Hydra Business Park for B2 uses in the future
69. Notwithstanding the provisions of local policies in respect of the availability of industrial land, a further consideration is the attractiveness of the retained industrial areas to continued and future use and investment. The existence of buildings where heavy industrial processes may take place, even if not at the current time, will result in noise that would cause disturbance to a sensitive use. The appeal proposal, being a school, would clearly be a sensitive use.
70. Whilst at the time of the planning application it was considered that a scheme of noise attenuation measures would be an appropriate means of mitigating against the immediate effect of noise, this does not account for use as an educational facility being a sensitive use and how this may limit the attractiveness of the Hydra Business Park in the eyes of a prospective investor in a neighbouring industrial unit.
71. It is reasonable that a potential investor, who may spend many thousands of pounds in preparing a unit ready for its use for a manufacturing or storage /warehousing use, would be concerned at the likelihood of future calls for a curtailment of their activities on the grounds of noise nuisance. This loss of attractiveness to heavier industrial and noise producing users, in an area where such uses are specifically directed by policy, would in turn be harmful to the aims

of the CS in respect of CS5d and CS32 and the attraction to locate manufacturing, distribution/warehousing and other non-office uses in the Chapeltown and Ecclesfield Area.

72. Of particular concern would be the impact on the development site to the west of the appeal site as identified earlier and edged yellow on the plan attached at Appendix One of the Council's appeal statement. This site was identified as necessary to help meet the city's employment land needs in the ELR. Whilst part of this site has subsequently been developed and occupied by Marvel Press (a commercial printers), approximately 50% of the site remains available for development. The location of a school in the immediate vicinity would limit the attractiveness of this site to developers and potential occupiers. It would also be contrary to the Framework which in paragraph 123 requires planning decisions to recognise that businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

Pedestrian safety

73. There is only one means of pedestrian access into the appeal site and this is through the Hydra Business Park. The Hydra Business Park is utilised by a number of industrial and commercial premises, each of which has its own vehicular movements, and given the permitted uses, these could reasonably be a number of heavy goods vehicles at any one time; regardless of current vehicle movements based upon any empty units.
74. The pedestrian access within the site is not considered to be satisfactory to the standards one would normally expect for access to an educational facility. The footpaths are narrow (being a fairly uniform 1.3m wide each side of the carriageway) and there are wide vehicular bell-mouths to the units and indeed at the entrance into the appeal site (necessary to accommodate the turning envelope of HGVs), that students would need to cross whilst walking to the appeal site.
75. Whilst the kerb drops at the bell mouths, there is no tactile paving. In all the circumstances this is not considered to be a satisfactory arrangement to cater for the movements of around 300 young students in a Business Park frequented by HGVs. This is contrary to the NPPF paragraph 69 that requires planning decisions to promote safe and accessible environments and developments, with clear and legible pedestrian routes.
76. It should be noted that the road within Hydra Business Park, serving the appeal site, is a private, unadopted road. The speed limit signs and double yellow lines have no legal status and are not enforceable by a Traffic Regulation Order. They are merely a management tool utilised by the owners of the Hydra Business Park.
77. The isolated nature of the appeal site, relative to the housing areas it is intended to serve, means that the students of the facility would most likely arrive by drop off, public transport or the older students may drive themselves. Each of these methods of arrival and departure would result in potential issues to the safety of pedestrians.
78. A real concern of the Council is the 1.3m wide footways running along each side of the Hydra Business Park's access road. The Institute of Highways and Transportation produced a guidance document in 2002 entitled, "Guidelines for

Providing for Journeys on Foot" (extracts attached at Appendix Three of the Council's appeal statement). This document reinforces the Council's opinion that the footpaths within the site are inadequate particularly when they are to serve a school that is expected to accommodate 300 students.

79. Best practice recommends an absolute minimum width of 1.8m, a desirable minimum width of 2.0m, and a preferred width of 2.6m (see paragraph 5.8 of *Guidelines for Providing for Journeys on Foot*). Where roads have a regular or high flow of HGV's, *Guidelines for Providing for Journeys on Foot* (paragraph 5.7), states that it is preferable to allow an additional minimum of 0.6m to allow for vehicle overhangs and pedestrian "kerb shyness". The footpaths serving the appeal site fall woefully short of these requirements. Consequently the Council has significant concerns over the adequacy of the appeal site for use as a school.
80. Currently, under permitted development rights, part of the appeal site (namely the office block attached to the front of the warehouse) is being used to deliver teaching to 60 students. During recent visits to the appeal site it was observed that when students were walking to the Academy in small clusters (sometimes just side-by-side), some students preferred walking in the road rather than being squeezed on the footpath.
81. If this appeal succeeds, a total of 300 students would be accommodated on the appeal site, in the converted warehouse, with the office space re-let (approx. 1300 sq.m). It should also be noted that there is scope for a significant upturn in HGV activity within the Hydra Business Park, which is obviously difficult to predict. The view of the Council is that the footway width is insufficient to accommodate the normal walking activity one would associate with this type and scale of development. The potential for pedestrian/vehicle conflict (and for student safety to be compromised) is just too real to ignore.
82. Policy IB9 of the UDP advises that new development or change of use will be permitted provided that it would: (f) be adequately served by transport facilities and provide safe access to the highway network and appropriate off-street parking; and (g) comply with Policies IB5 to IB8, IB10 to IB14 & T28 as appropriate. Part (f) of Policy IB9 is self-explanatory. For the other policies referred to in Part (g), developments of the type proposed are acceptable when: (a) they would meet the needs of young people, women, unemployed people, people with disabilities, elderly or early retired people, or ethnic minorities; and (b) be easily accessible by public transport and be safe to walk to and from; and (c) comply with Policy IB9.
83. Policy T28 advises that new development that would generate high levels of travel will be permitted only where it could be served adequately by: (a) existing public transport services and infrastructure; or (b) additions or extensions to such services linked directly to the development; or (c) proposed extensions to the Supertram network; and (d) the existing highway network; and will be promoted where it would be best served by public transport, and where its location would reduce the need to travel, especially by car. Where transport improvements will be needed to enable the proposal to go ahead, these should normally be provided, or commitment entered into to secure their provision, before any part of the development comes into use.
84. However, parts (a) and (b) of IB9 (f) and Policy T28 (transport improvements needing to have been provided prior to the development being brought into use)

have not, in the opinion of the Council, been complied with. The “hands-up” survey conducted within the submitted Travel Plan predicts that for 300 students, 68% would arrive by bus, 16% would have walked all the way, and 5% would catch the train and walk. This equates to 89% walking through the Hydra Business Park to access the appeal site. Paragraphs 4.18, 4.19 and 4.20 above describe how parts (a) and (b) of IB9 (f) have not been complied with.

85. With regard Policy T28, determining an appropriate width of footway for students to use walking through the Hydra Business Park is dictated to by site specific criteria, including pedestrian flow and composition; and, vehicle flow on the carriageway (type and speed). Speed of vehicles is not an issue. The type of vehicle however (large overhanging HGV's) is. At 1.3m wide, the footway requires students to walk in the road to pass other students; it is not possible to stop and talk to anyone because people cannot get by (especially those with buggies accessing 'Hydra Kids' in Unit 8).
86. Walking so close to live traffic gives a feeling of unease, particularly the type of traffic that may use a business park. There is no scope to widen the footway, as it would encroach into 3rd party land beyond the appellant's control. Reducing the width of the carriageway through the Hydra Business Park is not an option as it is required to accommodate the movements of HGV's. The layout of the Hydra Business Park was not designed with high pedestrian movements in mind.

Marketing

87. The appeal site was marketed for a period of 11 months. This is not a long period and there was some interest in the appeal site. This supports the Council's case that the appeal site is still attractive as a location for industrial use. The proposal for use as a school may have proved more attractive to the owners than any potential industrial occupier. This is not sufficient evidence to justify a conclusion that the appeal site is no longer appropriate for industrial use.

Other matters

88. The appellant refers to an appeal decision in respect of a scheme in Dorset that they believe is relevant to the determination of the appeal. The Council fail to see how a proposal in the area of a different planning authority with different policies and different facts can be in any way comparable. It is not an appeal that took place within the Council's administrative area, let alone in respect of the appeal site.
89. It cannot therefore be a material consideration of anything other than very limited weight. The appeal must be considered on its own merits and in any event it is noted that in the appeal referred to by the appellant the Inspector only found limited conflict with the development plan. As has been set out in the Council's Statement of Case that is not the case in respect of the appeal proposal which would result in significant conflict with the UDP and CS, as well as the Framework.

Interested Party – against the proposal

Ecclesfield Parish Council consultation response in relation to planning application

90. The committee are concerned to note that this was a retrospective planning application and wished to object that there was no suitable access to the site.

Conditions

91. Both main parties provided a list of suggested conditions prior to the hearing. These differ only slightly and each condition was discussed at the hearing. Should the Secretary of State be minded to grant planning permission, the Schedule of Conditions appended to this report at Annex A comprises those conditions that I consider should be imposed. The conditions comply with the Planning Practice Guidance.
92. In addition to the standard time condition a condition is recommended to ensure that the development is carried out in accordance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. A number of conditions are necessary for highway and pedestrian safety reasons both during the construction phase and once the development is operational.
93. In order to encourage the use of sustainable modes of transport a condition is necessary to ensure that a Travel Plan is prepared and adhered to. For the same reason it is necessary that facilities for the storage of bicycles are provided as well as shower facilities. Car parking provision as well as its management needs to be controlled to prevent vehicles parking on the surrounding road network in the interests of highway and pedestrian safety.
94. A condition to secure public art is necessary to comply with UDP policy BE12. For visual amenity reasons it is necessary to control external materials, services, boundary treatments and landscaping. It is important to ensure that renewable and low carbon energy is considered when converting this building, to comply with CS policy CS65. To ensure that the conditions inside the school are conducive to learning a condition is necessary to ensure that the sound attenuation works are carried out. This is particularly important given the location of the unit in an industrial area.
95. Regarding access for people with disabilities and UDP policy BE7; the suggested condition is unnecessary as this is covered by other legislation, including building regulations. Moreover, the modern purpose designed accommodation would all be at ground floor level; the submitted plans show accessible toilets and the design and access statement considers wider accessibility matters. I do not recommend that the Council's suggested condition regarding lighting to the multi use games area is imposed since light pollution in this industrial location would not be harmful. While there are roads nearby, they are some distance away. As such, I consider that such a condition would be unreasonable.

Inspector's Conclusions

Square brackets [] denote references to paragraphs in the earlier part of this report.

96. The main considerations identified at the beginning of the hearing were:

- i) whether the proposal would undermine the Council's local plan policies that seek to protect employment land and uses in this area;
- ii) the effect of the proposal on the ability to attract heavier industrial type employment uses to the surrounding area in the future; and
- iii) the effect of the proposal on pedestrian safety.

Whether the proposal would undermine the Council's local plan policies that seek to protect employment land and uses in this area

97. Policy IB5 confirms that in all General Industry Areas community facilities and institutions will be considered an acceptable use, subject to compliance with other policies, including policy IB9, a criteria based policy. There is no dispute that the appeal site is located in a General Industry Area as designated in the UDP and that policy IB5 of the UDP asserts that in General Industry Areas the preferred use will be General industry (B2) and Warehouses (B8).

98. While the proposed use is one that is acceptable in areas such as this, it is not a preferred use. Accordingly, criterion (a) of policy IB9 says that such uses will be permitted where it would 'not lead to a concentration of uses which would prejudice the dominance of industry and business in the area or cause the loss of important industrial sites'. As set out above, 'dominance' is defined in appendix I the UDP and I shall have regard to this in coming to a view on this particular case and set of circumstances.

99. Firstly one must define the area to be assessed. The UDP says that this should be 10ha maximum and the appellant's study area exceeds this. In this regard I prefer the Council's study area as it not only complies with the requirement for a maximum area of 10ha, but it also seems more logical as it is not divided by an impermeable boundary treatment and some difference in land levels which create a physical barrier, although I realise it is not an insurmountable one. [25 & 53]

100. Secondly, it is necessary to determine the existing uses within the study area and their floorspace. Plan SCD6, attached to the appellant's appeal statement, deals with this. Although this plan covers the area defined by the appellant the area I have used is the northern triangular parcel containing units 1 to 9. With the exception of units 2 & 5, there is agreement between the parties about which units are currently occupied by non-preferred uses and I do not dispute this.

101. Unit 2 is a furniture manufacturer which the appellant says is in B2/B8 use and the Council says it is a retail/sui generis use. I saw when I visited the site that it appears as a warehouse type unit with offices. It advertises a trade showroom. It did not appear to invite members of the public to shop in the manner that a retail unit would. I am confident that this unit falls within a B2/B8 use.

102. At unit 5 HGV repairs and storage takes place. Again the appellant argues this is a B2/B8 use and the Council sui-generis. This is debateable; however the

Planning Portal⁷ provides advice on use classes, including a list of sui generis uses. While this list is not exhaustive it does include motor sales and display. I would have expected it to include vehicle repairs if that was the case, but it does not. Therefore, I will take unit 5 to be in B2/B8 use also. To summarise, both units 2 & 5 contain preferred uses at present.

103. A Plan⁸ submitted at the hearing shows that taking the Council's study area, but accepting that units 2 & 5 contain preferred uses the level of preferred uses (assuming the appeal is allowed), would be 51%. Importantly this plan does not erroneously categorise units in B1 use as preferred uses. [28 53]

104. Turning to consider whether the proposal would cause the loss of an important industrial site. This site is not listed as an important site in policy IB8, however that list was compiled at the time of the UDP and so it is of some age. The site was also not included in the ELR, but that document only looked at individual sites that were available at the time that the report was compiled. At that time this site was fully occupied. It is clear from the ELR and a recent planning permission referred to by the Council that the appeal site is located in an area that is still important in providing a source of industrial sites. [54, 65]

105. Moreover, there is no reason why this site in itself would no longer be suitable for B2/B8 uses, but it seems that presently there are other more attractive areas in the city. The city has a number of enterprise zones where incentives are offered to attract businesses to them. This unit was marketed for 11 months which is not a great deal of time, particularly during a period when the market was still relatively weak. Nevertheless, some limited interest was shown as a result of a targeted marketing campaign. Despite a small number of viewings it seems that the configuration of the existing buildings and ratio of offices to warehousing was not desirable to other businesses. While the site could potentially have been redeveloped this has a significant cost associated with it. [33, 42, 43, 62, 65, 66, 67, 87]

106. The school only became interested in the site towards the end of the marketing campaign and so it is not the case that the marketing took place in a way that sought to limit interest from B2/B8 businesses. Moreover, there are other vacant sites in the area. One has recently been developed, in a slightly better location in business terms (Marvel Press) and there is another site adjacent to that still undeveloped. [65]

107. So whilst the ELR concluded that the City has a shortfall of available employment land in quantitative terms over the period 2013-2031 and there is still clearly a need for sites in this area for employment purposes, this proposal would accord with development plan policies that seek to protect employment land. Moreover, the proposal would bring this unit back into use and when at capacity provide employment for approximately 25 full time staff. The appeal site is currently vacant and the previous tenant has relocated to premises within the Sheffield area. Therefore the proposal would not lead to a direct loss of employment, but a net increase as a result of the proposal. [44]

⁷ <http://www.planningportal.gov.uk/permission/commonprojects/changeofuse/>

⁸ Appended to document 12

108. The limited amount of superficial works that are proposed to the unit would not prevent it being reused for industrial purposes in the future, should the Academy vacate the site and there be a greater demand than is apparent at the present time for such premises in this area. So, while the site is located within an industrial area designated by CS policies CS 5 and CS 32, the proposal would accord with UDP policy IB9 which allows for other acceptable uses in these areas subject to certain criteria. The relevant criterion (a) would be met in this case.

The effect of the proposal on the ability to attract heavier industrial type employment uses to the surrounding area in the future [23, 34, 69, 70, 71, 72]

109. There is no doubt that the school could be susceptible to any noise pollution emanating from the surrounding area. Nevertheless the submitted noise report shows how this can be successfully mitigated. One cannot rule out the possibility that having a school on the Hydra Business Park would be of concern to future prospective occupiers of other sites because of the risk of complaints about noise nuisance. Nevertheless, close to the appeal site there are other existing uses that could legitimately give future occupiers similar concerns, particularly the children's day nursery and the offices.

110. I have no evidence to suggest that these uses have given rise to letting problems on the Hydra Business Park or that they have complained about existing noisier uses. Some particularly noxious uses such as scrap yards may be acceptable in principle on sites in this area, but the Council would have control over where they are sited as they do not fall into class B2/B8. As set out in the list of uses on the Planning Portal scrap yards are a sui generis use.

111. Clearly such uses need to be placed somewhere and hence why the Council have designated areas where they are more likely to be acceptable. However, there are already a number of uses on this business park that would not make happy bedfellows with a scrap yard such as the day nursery and offices. Consequently this proposal would not create this potential mismatch of uses; it already exists. Moreover this proposal is an 'accepted use' in this area, as set out above.

112. As such, the proposal would not conflict with CS policy CS 5 in so far as it seeks to focus manufacturing, distribution/warehousing and other non-office businesses in areas such as Ecclesfield; nor with policy CS 32 which identifies Ecclesfield Common as a suitable location for business and industrial development.

The effect of the proposal on pedestrian safety

113. The footpaths within the Hydra Business Park are narrow and the proposal would result in significant footfall, especially at the beginning and end of the academic day. Paragraph 5.7 of The Institution of Highways and Transportation advice in 'Guidelines for Providing for Journeys on Foot'⁹ says that other guidance advises that an absolute minimum footway width of 1.3m is permissible and that is what is provided here. Also, of note is that the carriageway width in the Hydra Business Park is wider than normal. [39, 74, 78, 79]

⁹ Extract on appeal file

114. I noted that as we walked through the Hydra Business Park as a group during the site visit some people strayed onto the road. This was in part due to the narrow footpath, but also I consider because the road was extremely quiet. From the evidence submitted by the appellant it would appear that a large percentage of the students would walk to the Academy either from bus stops on Nether Lane or from houses in the surrounding area. [39]
115. The distance from Nether Lane to the appeal site, along the Hydra Business Park footpaths is short and there are footpaths at both sides of the carriageway thereby dispersing the pedestrian traffic. [39, 84] I saw that footpaths along Nether Lane are wider and these would be used for most of the journeys from bus stops and nearby housing. While the appellant has offered to provide additional bus lay-bys on Nether Lane, closer to the business park, the Planning Committee minutes¹⁰ show that South Yorkshire Passenger Transport Executive objected to this and so a planning condition to secure this would be unreasonable as it would be unenforceable.
116. Submitted evidence also shows that the vehicular movements through the Hydra Business Park are not particularly high at present and that HCVs are in the minority. I realise that this is because of the presence of uses such as offices, a day nursery and a play centre and that this could change in the future. However, I have no evidence to suggest this is likely to occur. Some businesses would also be busier at weekends, such as the play centre and the used car sales business. I am also mindful that the students would be between the ages of 16 and 19, so not young children with poor road sense. [37, 38, 39, 85]
117. As set out above [40], the appellant has offered to carry out various works to pavements such as drop kerbs and tactile paving, the promotion of a traffic regulation order to restrict waiting and loading, a 10mph speed limit on the business park road as well as road markings, traffic signs and street lights. While some of the planned measures may be difficult to enforce such as the speed limit and waiting restrictions, they would act as a deterrent and make drivers act more responsibly.
118. Some works may also require the agreement of other occupiers of the Hydra Business Park and from what I heard at the hearing this would be unlikely to be a problem. As noted previously no objections have been raised by any of the occupiers of other units on the Hydra Business Park to the proposal. Although these proposed safety improvement measures may have a limited ability to change the behaviour of drivers and that some may not be possible for a variety of reasons I am satisfied that the risk to pedestrians using the footpaths to access the appeal site would be at an acceptable level without all of these works being implemented.
119. I have amended the condition suggested by the Council and the appellant to a less rigid one that would not require the appellant carry out works potentially beyond their control. This is because the suggested condition required the appellant to carry out works that are subject to a different consenting regime (Traffic Regulation Orders) and on a private road.

¹⁰ On appeal file

120. Overall while the situation is not ideal, on balance, safe pedestrian access to the Academy would be available and the proposal would accord with UDP policy IB9. There are good public transport links to Nether Lane from where there are footpaths leading directly to those on the Hydra Business Park. Also the site is within walking distance of many houses, and so is located to reduce the need to travel, especially by car. Consequently UDP policy T28 would also be complied with.

Recommendation

121. I recommend that planning permission be granted subject to the conditions recommended in Annex A appended below.

Louise Crosby

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Katharine Morgan	DTZ
William Steel	DTZ
Stephen Miles	DTZ
Steven Windass	Local Transport Projects Ltd
Catherine Seddon	JLL
Rebecca Maxted	Headteacher, Chapeltown Academy
Anton Van Zyl	Education Funding Agency
David Simpson	Hydra Park Properties

FOR THE LOCAL PLANNING AUTHORITY:

Simon Tucker	Planning Officer, Sheffield City Council
Richard Holmes	Planning Policy Manager, Sheffield City Council
Howard Smith	Highways Engineer, Sheffield City Council

DOCUMENTS

Documents submitted at the planning application stage

1. List of documents published on Council's website for planning application site and set out in point 19 of the Statement of Common Ground on the appeal file (dated 17 April 2015)

Documents submitted during the appeal process

2. Appellant's statement of case
3. Letter from Hallam Express dated 12 February 2015
4. Council's statement
5. Sheffield City Council Employment Land Review
6. Statement of Common Ground
7. Extract from Core Strategy with relevant policies
8. Lists of suggested conditions by both main parties

Documents submitted at the hearing

9. Letter of notification of hearing to interested parties
10. Sheffield UDP 1998 Extract (policies IB8 & IB9)
11. Sheffield UDP 1998 Extract (appendix I – Acceptable land uses)
12. Submission from DTZ on dominant uses in the local area
13. Complete copy of UDP

PLANS

As listed in section 4.2 of the Statement of Common Ground

ANNEX A

Recommended conditions in the event the planning permission is granted:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Noise Report and Contaminated Land Report.

Drawing Nos:
302 P1
303P1
401P1
200P3
202 P7
- 3) Prior to commencement of development full details of the proposed servicing arrangements and times (including for example delivery of Academy dinners) shall have been submitted to and approved in writing by the Local Planning Authority, and thereafter adhered to.
- 4) Prior to the occupation of any part of the development hereby approved a detailed Travel Plan, designed to reduce the need for and impact of motor vehicles; and to facilitate and encourage alternative travel modes, shall have been submitted to and approved in writing by the Local Planning Authority. The Detailed Travel Plan shall be developed in accordance with the principles set within the Framework Travel Plan submitted for the development. On occupation the approved Travel Plan shall thereafter be implemented.

The Travel Plan shall include:

1. Clear and unambiguous objectives and modal split targets;
 2. An implementation programme, with arrangements to review and report back on progress being achieved to the Local Planning Authority in accordance with the 'Monitoring Schedule' for written approval of actions consequently proposed;
 3. Provision for the results and findings of the monitoring to be independently verified/validated to the satisfaction of the local planning authority; and
 4. Provisions that the verified/validated results will be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets.
- 5) The Local Planning Authority shall be consulted with and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan, following the submission of progress performance reports as timetabled in the programme of implementation. All future owners/occupants of the site shall operate a Travel Plan and will adhere to

the approved Travel Plan unless otherwise varied and agreed with the Local Planning Authority prior to occupation.

- 6) Prior to any external works to the building or existing site layout works commencing on site (excluding initial site mobilisation works), full details of the following shall have been submitted to and approved in writing by the Local Planning Authority, and the construction works shall only be progressed in accordance with the approved details:
 - Construction method statement.
 - Phasing of construction works.
 - Locations of any temporary classrooms.
 - Site safety and segregation.
 - Any temporary site access for construction traffic.
 - Location of site compound and temporary car parking arrangements for contractors.
 - Haulage routes.
 - Times when construction works and movement of construction traffic will be restricted (to avoid conflicts with student arrival/departure).
- 7) Notwithstanding the submitted plans, prior to the development becoming occupied, suitable and sufficient, secure and sheltered bicycle/motorcycle parking accommodation (plus storage/changing/shower facilities) shall have been provided in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the bicycle/motorcycle parking and shower facilities shall be retained/maintained for the sole purpose intended.
- 8) The development shall not be brought into use until all vehicle and pedestrian areas within the site shall have been surfaced, sealed and drained to the satisfaction of the Local Planning Authority prior to occupation.
- 9) The development shall not be brought into use until the car parking accommodation has been provided as indicated on the approved plans, surfaced, drained, illuminated and formally marked out to the satisfaction of the Local Planning Authority (including the pedestrian routes through the car park). The above-mentioned arrangements shall be used for the sole purpose intended, and shall be retained/maintained thereafter.
- 10) Prior to commencement of development a scheme of highway safety/improvement works along with an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed scheme and timetable.
- 11) Prior to the development becoming occupied and notwithstanding the submitted plans, details shall have been submitted to and approved in writing by the Local Planning Authority to show how the car parking accommodation will be managed and allocated between the office use and the educational use, including details of a revised entrance arrangement into the car park (gates and relocated waste receptacles to achieve two-way traffic). The agreed aforementioned details shall have been implemented prior to occupation of the development for the use hereby approved.

- 12) Prior to commencement of development, 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.
- 13) A comprehensive and detailed hard and soft landscape scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced.
- 14) The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. The Local Planning Authority shall be notified in writing when the landscape works are completed. 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 five year period shall be replaced unless otherwise approved by the Local Planning Authority.
- 15) 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.
- 16) Details of the location, specification and appearance of all new services to the building (including air conditioning, ventilation, extract and odour control equipment and internal and external ducting) shall be approved in writing by the Local Planning Authority before installation.
- 17) Unless it can be shown not to be feasible and viable, within 8 weeks of the commencement of development a report which shall be submitted to and approved in writing by the Local Planning Authority identifying the strategy for providing a minimum of 10% of the predicted energy needs from decentralised and renewable or low carbon energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources or additional energy efficiency measures shall have been installed before any part of the development is occupied and a post-installation report shall have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the agreed measures have been installed. Thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.

This condition shall not preclude an agreement being reached with the Council for arrangements for an off-site carbon reduction scheme if it is demonstrated that it is not feasible to generate renewable or low carbon energy on site.
- 18) Prior to commencement of development all sound attenuation works detailed in the noise report carried out by Hepworth Acoustics (ref. 22357.0101, September 2014) shall have been implemented and thereafter retained in accordance with the details submitted to and approved by the Local Planning Authority.
- 19) Prior to commencement of development details of a suitable means of site boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be used unless the

approved means of site boundary treatment has been provided in accordance with the approved details and thereafter such means of site enclosure shall be retained.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

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