

## PLANNING REGULATORY BOARD

Date:- Thursday, 17 November 2016      Venue:- Town Hall, Moorgate Street,  
Rotherham. S60 2TH  
Time:- 9.00 a.m.

### AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence (substitution)
4. Declarations of Interest (Page 1)  
*(A form is attached and spares will be available at the meeting)*
5. Minutes of the previous meeting held on 27th October, 2016 (Pages 2 - 3)
6. Deferments/Site Visits (information attached) (Pages 4 - 5)
7. Development Proposals (Pages 6 - 41)
8. Report of the Assistant Director of Planning Regeneration and Culture (Pages 42 - 48)
9. Updates
10. Date of next meeting - Thursday 8 December 2016

### Membership of the Planning Board 2016/17

Chairman – Councillor Atkin  
Vice-Chairman – Councillor Tweed  
Councillors Andrews, Bird, D. Cutts, M. S. Elliott, Ireland, Khan,  
Price, Roddison, Sansome, R.A.J. Turner, Walsh and Whysall.



**SHARON KEMP,**  
Chief Executive.

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**PLANNING BOARD**

**MEMBERS' DECLARATION OF INTEREST**

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

*Please tick (√) which type of interest you have in the appropriate box below:-*

**1. Disclosable Pecuniary**

**2. Personal**

Please give your reason(s) for you Declaring an Interest:-

*(Please continue overleaf if necessary)*

N.B. It is up to a Member to determine whether to make a Declaration. However, if you should require any assistance, please consult the Legal Adviser or Democratic Services Officer prior to the meeting.

Signed:- .....

*(When you have completed this form, please hand it to the Democratic Services Officer.)*

PLANNING BOARD - 27/10/16

**PLANNING BOARD**  
**Thursday, 27th October, 2016**

Present:- Councillor Atkin (in the Chair); Councillors Andrews, D. Cutts, M. S. Elliott, Khan, Price, Sansome, R.A.J. Turner, Tweed, Walsh and Whysall.

Apologies for absence were received from Councillors Bird, Ireland and Jarvis.

**36.           DECLARATIONS OF INTEREST**

There were no Declarations of Interest made at this meeting.

**37.           MINUTES OF THE PREVIOUS MEETING HELD ON 6TH OCTOBER 2016**

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday, 6th October, 2016, be approved as a correct record for signature by the Chairman.

**38.           DEFERMENTS/SITE VISITS**

There were no site visits nor deferments recommended.

**39.           CONTINUATION OF TREE PRESERVATION ORDER NO. 7 1990, HOOTON CLIFF WOOD, DONCASTER ROAD, HOOTON ROBERTS**

Further to Minute No. 34 of the meeting of the Planning Board held on 6th October, 2016 and after receipt of the latest communication from Mr. R. Winstanley sent to all Members of the Planning Board, consideration of this matter was deferred to allow the Council time to consider its options and/or actions in relation to this matter.

**40.           DEVELOPMENT PROPOSALS**

Resolved:- (1) That, on the development proposals now considered, the requisite notices be issued and be made available on the Council's website and that the time limits specified in Sections 91 and 92 of the Town and Country Planning Act 1990 apply.

In accordance with the right to speak procedure, the following people attended the meeting and spoke about the applications shown below:-

- Erection of a single storey building for retail use (use class A1) at the former Kirk House, Browning Road, Herringthorpe for Horizon (RB2016/0543)

Mrs. L. Sadler (agent on behalf of the applicant Company)

Mr. Sahota (objector)

Councillor K. Reeder (objector)

- Siting of portable building to provide outside bar and installation of external timber seating and tables to front patio at 169 Bawtry Road, Wickersley for The Olive Lounge (RB2016/1058)

Mr. D. Baker (on behalf of the applicant)  
Parish Councillor Mr. P. Thirlwall (objector)  
Parish Councillor Mrs. S. Ellis (objector)

(2) That applications RB2016/0543 and RB2016/1058 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

**41. UPDATES**

Discussion took place on the training sessions provided for Members of the Planning Board:-

(1) 18th October, 2016 – the session about determining applications for planning permission for hydraulic fracturing (commonly known as “fracking”) had been very informative;

(2) 3rd November, 2016 – a session has been arranged about neighbourhood planning.

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL****PLANNING BOARD****DEFERMENTS**

- Planning applications which have been reported on the Planning Board Agenda should not be deferred on request without justification.
- Justification for deferring a decision can arise from a number of matters:-
  - (a) Members may require further information which has not previously been obtained.
  - (b) Members may require further discussions between the applicant and officers over a specific issue.
  - (c) Members may require a visit to the site.
  - (d) Members may delegate to the Director of Service the detailed wording of a reason for refusal or a planning condition.
  - (e) Members may wish to ensure that an applicant or objector is not denied the opportunity to exercise the “Right to Speak”.
- Any requests for deferments from Members must be justified in Planning terms and approved by the Board. The reason for deferring must be clearly set out by the Proposing Member and be recorded in the minutes.
- The Director of Planning Regeneration and Culture or the applicant may also request the deferment of an application, which must be justified in planning terms and approved by the Board.

## SITE VISITS

- Requests for the Planning Board to visit a site come from a variety of sources:- the applicant, objectors, the Parish Council, local Ward Councillors, Board Members or sometimes from the Director of Planning Regeneration and Culture.
- Site visits should only be considered necessary if the impact of the proposed development is difficult to assess from the application plans and supporting information provided with the officer's written report; if the application is particularly contentious or the application has an element that cannot be adequately expressed in writing by the applicant or objector. Site visits can cause delay and additional cost to a project or development and should only be used where fully justified.
- The reasons why a site visit is called should be specified by the Board and recorded.
- Normally the visit will be programmed by Democratic Services to precede the next Board meeting (i.e. within three weeks) to minimise any delay.
- The visit will normally comprise of the Members of the Planning Board and appropriate officers. Ward Members are notified of visits within their Ward.
- All applicants and representees are notified of the date and approximate time of the visit. As far as possible Members should keep to the schedule of visits set out by Committee Services on the Board meeting agenda.
- Normally the visit will be accessed by coach. Members and officers are required to observe the site directly when making the visit, although the item will be occasioned by a short presentation by officers as an introduction on the coach before alighting. Ward Members present will be invited on the coach for this introduction.
- On site the Chairman and Vice-Chairman will be made known to the applicant and representees and will lead the visit allowing questions, views and discussions. The applicant and representees are free to make points on the nature and impact of the development proposal as well as factual matters in relation to the site, however, the purpose of the visit is not to promote a full debate of all the issues involved with the application. Members must conduct the visit as a group in a manner which is open, impartial and equitable and should endeavour to ensure that they hear all points made by the applicant and representees.
- At the conclusion of the visit the Chairman should explain the next steps. The applicant and representees should be informed that the decision on the application will normally be made later that day at the Board meeting subject to the normal procedure and that they will be welcome to attend and exercise their "Right to Speak" as appropriate.

**REPORT TO THE PLANNING REGULATORY BOARD  
TO BE HELD ON THURSDAY 17 NOVEMBER 2016**

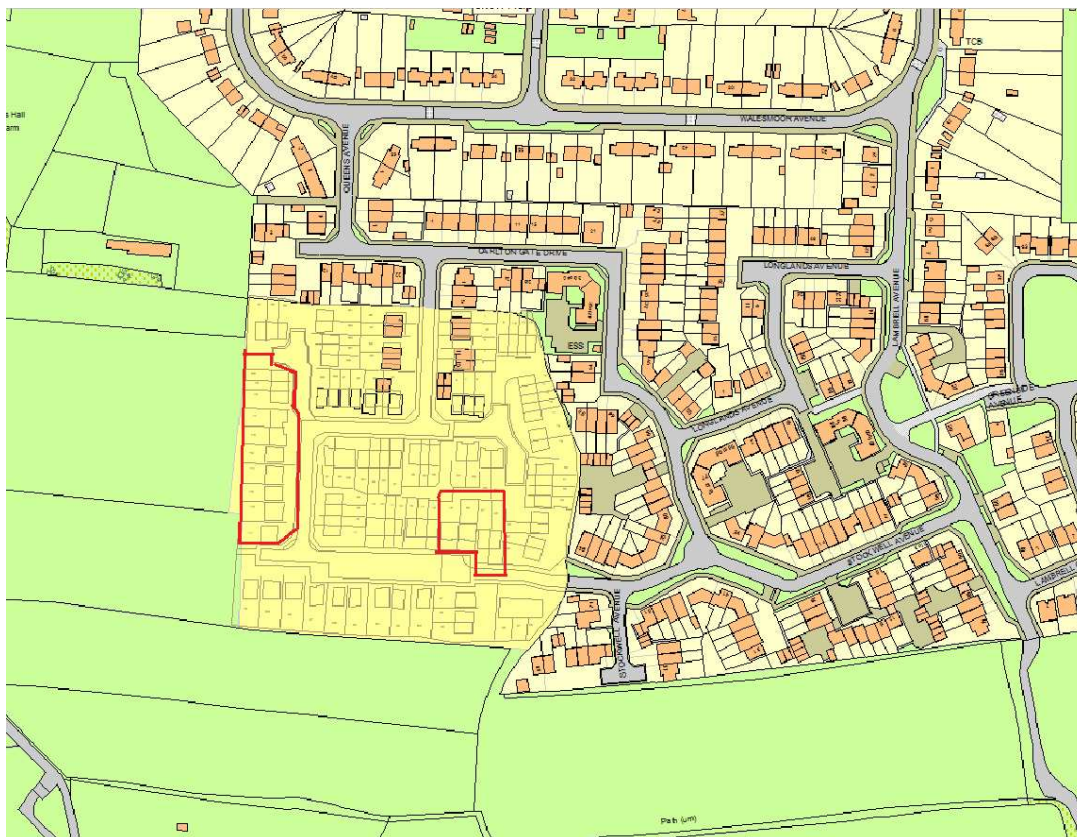
The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

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| <b>RB2016/0817</b><br><b>Erection of 14 No. dwellinghouses on plots 48-51 and 71-80 at land off Queens Avenue Kiveton Park for W Redmile &amp; Sons Ltd</b>                  | <b>Page 7</b>  |
| <b>RB2016/1183</b><br><b>Application to vary condition 02 (approved plans) imposed by RB2014/1282 at Fullerton Public House Vale Road Thrybergh for RJR Developments Ltd</b> | <b>Page 14</b> |
| <b>RB2016/1206</b><br><b>Use of land as extension to garden area at 21 Milton Road Dinnington for Mrs S Short</b>  | <b>Page 26</b> |
| <b>RB2016/1286</b><br><b>Siting of portable building to provide outside bar at Masons Arms PH Bawtry Road/Northfield Lane Wickersley for Greene King Plc</b>                 | <b>Page 32</b> |

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2016/0817</b>  |
| <b>Proposal and Location</b> | Erection of 14 No. dwellinghouses on plots 48-51 and 71-80, land off Queens Avenue, Kiveton Park, S26 5PU |
| <b>Recommendation</b>        | Grant subject to conditions   |

The application is being presented to Planning Board as it does not fall within the Scheme of Delegation for housing developments.



### Site Description and Location

The site comprises two parcels of land within the overall application site granted outline permission under application number RB2009/0906 and approval of details under application RB2011/0030. The overall site comprises a square piece of greenfield land approximately 2.37 hectares in area and located on the south western edge of Kiveton Park. Development has commenced on the overall site with a number of houses close to the northern entrance now completed.

### Background

The site has been the subject of two previous applications:

RB2009/0906 -Outline application for the erection of residential development including details of the means of access, at Land off Queens Avenue Kiveton Park, for Redmile Homes Ltd. Permission was granted subject to conditions and an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the securing of the following:



- The provision of affordable housing units on the site in the form of 15% of the total number of houses to be provided, the size type and tenure to reflect housing need in the area and agreed by the Local Planning Authority.
- The provision of Green Space on site and submission of a scheme for the future maintenance and management of the Green Space provision.
- A contribution of £6,000 towards the cost of signalling the A618 Mansfield Road/B6059 School Road/South Terrace junction.
- A contribution of £10,000 towards the cost of implementing traffic calming measures in the existing residential roads used to access the site.

RB2011/0030 – Reserved matters approval for details of the erection of 98 dwelling houses with associated garages and landscaping (reserved by outline planning permission RB2008/0906) – Granted Conditionally in 2011.

Whilst a screening opinion was carried out in respect of the original outline and reserved matters applications (as the overall site area exceeded 0.5 hectares) the current application site comprises only 0.13 hectares, and in any event the threshold has since been increased to 5 hectares (or 150 houses). As such, a screening opinion is not required in this instance.

RB2013/0974 - Erection of 10 dwellings (amendment to layout on plots 1-5 & 93-98 previously approved under RB2011/0030), - GRANTED CONDITIONALLY

RB2014/0985 - Erection of 7 dwellinghouses (substitution of house types on plots 24-30 previously approved under planning application RB2011/0030) - GRANTED CONDITIONALLY

RB2015/0556 - Erection of 7 dwellinghouses (substitution of house types on plots 27-33 previously approved under planning application RB2011/0030) - GRANTED CONDITIONALLY

### **Proposal**

The proposal is for the erection of 14 houses to replace houses previously granted as part of the original approval RB2011/0030. The types of houses remain the same, as in 1 terrace of three, 3 pairs of semis, and 5 detached.

The reason for the changes relates to the market demand for different house styles and the fundamental changes involve replacement of plots 48-51 with more traditional 2 storey plots as opposed to 2½ storey dwellings. Initially the applicant intended to rotate the plots 90° to face side onto the highway. However following Officer's advice the applicant agreed to maintain their position facing the highway.

Plots 71-75 have been updated by using the latest versions of the detached house types with the mix adjusted slightly, plots 76-77 have been replaced by a standard semi detached pair of houses & the terrace of three on plots 78-80 have changed in design.

The style of the new plot types reflects the post modern style of the estate and a similar level of garden space and parking will be provided.

Such alterations can normally be dealt with by way of a variation of the original approved plans (S73 application) though this cannot be carried out on plans approved at reserved matter stage. A such, a full application has been submitted.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP). The application site is allocated for Residential use in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):  
CS28 'Sustainable Design'

Unitary Development Plan  
HG5 'The Residential Environment'

### **Other Material Considerations**

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

The Core Strategy/Unitary Development Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

### **Publicity**

The application was advertised on site and neighbouring residents notified. No letters of representation have been received.

## **Consultations**

Streetpride (Transportation and Highways Unit): No objections subject to previous conditions.

Neighbourhoods (Land Contamination): Notes that the application site was originally granted planning permission in 2008 for residential development (RB2008/0906). At this time a site intrusive investigation was undertaken across the full site to determine if contamination was present which could give rise to risks to human health. The results of the site investigation revealed no made ground was present at the site and visibly no contamination was identified. This was confirmed also by the testing of soils submitted to an approved laboratory for chemical testing. Based on the chemical analysis results it was concluded there was no risk to human health from contamination and the site was suitable for its proposed residential end use.

However, the report makes mention to localised ground remediation works being required in the west of the site due to the presence of a shallow coal seam at a thickness of 1.1m. Ground treatment is required comprising of drilling and grouting, using a cement/PFA grout to infill any voids within the loose ground within the affected areas (boreholes BH1 and BH5). The report provided detailing these works is dated 2008. It is unknown from the recent information provided whether ground remediation works have already been undertaken and approved.

It is concluded that the risks from contamination at the site still remain low and no remedial measures are required.

South Yorkshire Police: Recommends a number of crime reduction measures be incorporated in the design.

Severn Trent Water: No objections subject to relevant condition.

## **Appraisal**

The land is allocated for residential purposes and planning permission has previously been granted for residential development on the site, and this permission has been implemented as some of the houses are now under construction. The principle of the development is therefore acceptable. In addition, the current proposal would not impact on the S106 legal agreement that was signed in respect of the original outline permission. The main issues for consideration are therefore:

- The scale and design of the dwellings.
- The residential amenities of existing and future residents.
- Highway safety matters.

The scale and design of the dwellings:

Core Strategy Policy CS28 – Sustainable Design states that: “Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.”

The NPPF notes at paragraph 56 that: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The dwellings are appropriately designed and relate well to the existing character of the locality in terms of their scale, massing, height and materials. The applicant has amended the scheme in line with comments from officers and agreed to keep plots 48-51 fronting the highway rather than facing side onto the street. As such the scheme will retain an active streetscene, to the benefit of the character of the estate and to provide visual surveillance.

It is therefore considered that the proposals as submitted would, by way of their scale and design, be appropriate for the area, and would have no adverse effect on visual amenity, thereby being in accordance with Core Strategy Policy CS28 – Sustainable Design and guidance in paragraphs 56 and 64 of the NPPF.

The residential amenities of existing and future residents:

UDP Policy HG5 ‘The Residential Environment,’ states that: “The Council will encourage the use of best practice in housing layout and design in order to provide developments which enhance the quality of the residential environment and provide a more accessible residential environment for everyone.”

The NPPF states at paragraph 17 that within the overarching roles that the planning system ought to play is a set of core land-use planning principles that should underpin both plan-making and decision-taking. Amongst these 12 principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and building.

The position of the plots is similar or matches exactly that which was previously approved and the impact on proposed occupiers would be similar to that approved. There are no existing houses near to this part of the overall development site.

In view of the above, it is not considered that there would be any material adverse impact on the residential amenities of the existing and future residents.

Highway safety matters:

As the proposals would not lead to a reduction in available parking from that previously approved, the scheme is not considered to lead to an intensification of use of the site. Streetpride (Transportation and Highways) Unit concurs with this view.

**Conclusion**

The new application replaces previously approved properties with new plot types and would not result in any significant adverse change to the development in terms of the design, scale and massing of the properties or any adverse effect on the residential amenities of the area or the character and appearance of the overall development. It is therefore recommended that permission be granted.

Conditions

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority.

(Site layout KP-SL-01) Revision H  
(Cubar Elevations KPV/CU-01)  
(Cubar Layout KIV/CU-02)  
(Hathersage Elevations KIV/HA-12)  
(Hathersage 1<sup>st</sup> floor plan KIV/HA-02)  
(Hathersage ground floor KIV/HA-01)  
(Hopton Elevation KIV/HO-01)  
(Hopton Floor plan KIV/HO-02)

(Received 16/04/15)

Reason

To define the permission and for the avoidance of doubt.

03

Before the development is brought into use, a Landscape scheme, showing location and types of landscape treatment, shall be submitted for approval by the Local Planning Authority. The Landscape scheme should be prepared in accordance with RMBC Landscape Design Guide (April 2014) and shall be implemented in the next available planting season and maintained to ensure healthy establishment. Any plants dying, removed or destroyed within five years of planting shall be replaced the following planting season.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Core Strategy policy CS28 'Sustainable Design', UDP Policies ENV3 'Borough Landscape', , ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

04

Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Core Strategy policy CS28 'Sustainable Design', UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

05

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted 'material' plan. The development shall thereafter be carried out in accordance with these details.

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Core Strategy policy CS28 'Sustainable Design'.

06

Before the development is brought into use, that part of the site to be used by vehicles shall be constructed with either;

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

**Reason**

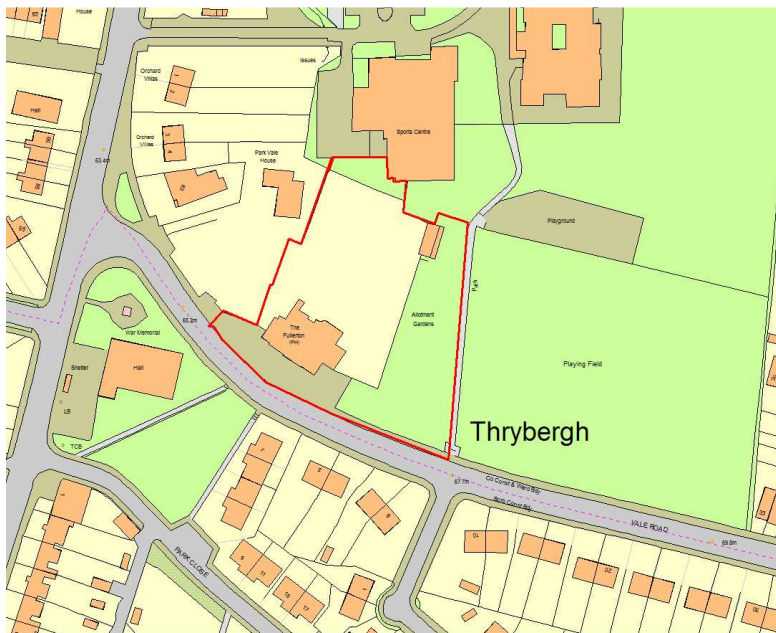
To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity and in accordance with UDP Policy HG5 'The Residential Environment'.

**POSITIVE AND PROACTIVE STATEMENT**

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2016/1183</b>  |
| <b>Proposal and Location</b> | Application to vary condition 02 (approved plans) imposed by RB2014/1282 at Fullerton PH, Vale Road, Thrybergh, S65 4DD |
| <b>Recommendation</b>        | Grant Conditionally   |

**This application is being presented to Planning Board as the proposal does not fall within the scheme of delegation.**



**Site Description and Location**

The site of application is a former Public House located on Vale Road, Thrybergh. To the west of the site is open land subject to planning permission for 4 houses, whilst to the north west is a single residential property (Silverwood Farmhouse, previously known as Park Vale House). To the north

is the sports centre building of Thrybergh School and Sports College whilst to the north east and east is open playing field land. Across Vale Road to the south are residential properties.

The property dates from the 1920s and is constructed in a neo Georgian style, with a number of ornate features. The pub is set within extensive grounds (1.2 acres) with parking to the front. To the rear is a substantial beer garden, which originally formed a bowling green. The bowls club appears to have ceased many decades ago. To the western section of the site are former private allotments once run in association with the pub. To the front of the former allotments is a concrete bus shelter.

The pub is currently derelict and has not been in use for a number of years and has suffered from severe vandalism. The allotments are now overgrown with no apparent use in the last 2 years.

## **Background**

RH1961/3229 - WC & additional staircase – Granted

RB1978/3567 - Car park & terrace - GRANTED CONDITIONALLY

RB2007/1245 - Retrospective permission for the erection of a detached smoking shelter - GRANTED CONDITIONALLY

RB2014/1282 - Demolition of PH and erection of 14 No. dwellinghouses - GRANTED CONDITIONALLY. The proposal originally sought a contribution by way of a S106 agreement towards the relocation of the existing bus shelter though following consideration by Planning Board, the Chairman and Vice Chairman agreed that the S106 could be replaced by an additional condition as the new position of the bus stop had been agreed with SYPTE and as only a pole stop was required as opposed to a bus shelter.

Planning permission has been granted for the erection of 4 houses on the land to the west of the Fullerton pub site (RB2014/0718). This permission has not been implemented.

## **Proposal**

Permission has already been approved to demolish the existing 1920s Public House and to erect 14 new dwellings. This application seeks to vary condition 2 relating to the approved plans by adding dormer windows to the front and rear roof slopes of plots: 1, 2, 8 and 9 (that front the road), and the front and rear roof slopes of plots 10,11,12 &13 (which are located towards the rear of the site).

The new dormers will be 2.15m wide 2m high and provide for an additional 4<sup>th</sup> bedroom in the roofspace. The applicant has indicated that the dormers will be tile clad to match the roof.



The overall height of the properties would not alter, though the dwellings affected would alter from 3 to 4 bed units.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP) (noted in Appendix B of the Core Strategy). The Rotherham Local Plan 'Publication Sites and Policies' was published in September 2015.

The application site is allocated for Residential use in the UDP. In addition, the Rotherham Local Plan 'Publication Sites and Policies' document allocates the site for 'Residential' purposes on the Policies Map. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS1 'Delivering Rotherham's Spatial Strategy'  
CS28 'Sustainable Design'

The application has been assessed against the following 'saved' UDP policies:

HG4.3 'Windfall Sites'  
T6 'Location and Layout of Development'  
CR1.5 'Community Facilities'  
ENV5.2 'Incidental Urban Greenspace'

### **Other Material Considerations**

South Yorkshire Residential Design Guide.

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

The Core Strategy/Unitary Development Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

### **Publicity**

The application has been advertised by way of site notice, while neighbours have been notified in writing. Six letters of objection have been received, one from the Clerk to Thrybergh Parish Council and five from Councillors on the Parish Council, none of whom lives opposite the site itself. The objections state that:

- The proposal is a significant variation to the original application and if approved it would have a detrimental impact on neighbouring residents.
- The amended plans which provide for more 4 bedroom properties with dormer bedrooms at height, will seriously adversely affect the privacy of residents living opposite on Vale Road.

### **Consultations**

Streetpride (Transportation and Highways): Raise no objections to the amended proposals.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The principle of the development has previously been approved under application RB2014/1282 as well as the relocation of the existing bus stop within the public highway. The main issues for consideration in the determination of the current application are therefore:

- i) The design of the proposed dormers and their impact on the visual amenity of the streetscene.
- ii) The impact of the dormers on the amenity of neighbouring residents.
- iii) Highway issues.

- iv) Affordable housing contribution.

#### Design issues and impact on streetscene

Core Strategy Policy CS28 – Sustainable Design states that: “Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.”

One of the core planning principles outlined within the NPPF at paragraph 17 states, planning should always seek to secure high quality design. Paragraph 56 further states: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people.” In addition paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The new dormer windows are proportionate to the host properties and are to be clad in tiles to minimise their visual appearance. Whilst dormer windows are not a common feature in the streetscene, on this standalone development they will not appear out of keeping.

It is therefore considered that the design of the scheme satisfies the requirements of paragraph 56 of the NPPF, and would improve the character of the area; in addition the scheme would satisfy the provisions outlined within Core Strategy Policy CS28.

#### Impact on amenity of neighbouring residents

In assessing the impact of the proposed development on the amenity of neighbouring residents, regard has been given to the South Yorkshire Residential Design Guide. In respect of spacing standards across streets it states: “The dimension across streets, measured from building front to building front (or side), should vary to emphasise the street hierarchy. The width of the street space should be proportionate to the order of the street in the hierarchy. Principal and higher order streets should be wider. Lower order streets should not normally be less than 12 metres, measured building front to building front (or side).” It adds that for rear elevation to rear elevation: “For the purposes of privacy and avoiding an ‘overbearing’ relationship between buildings, the minimum back-to-back dimension (between facing habitable rooms) should be 21 metres.”

The objectors have raised concerns that the dormers will create excessive overlooking of properties opposite on Vale Road. It is noted that 4 dwellings to the front of the site are to include dormers windows. Two of these properties

(plots 1 and 2) face the open area to the front of 1-7 (odd) Park Close, whilst the other two (plots 8 and 9) face 6 and 8 Vale Road, which are set at an angle to the road.

The separation distance between the new dwellings and those existing across Vale Road is in excess of 30m and therefore far exceeds the usual 21m minimum distance that relates to rear elevations facing rear elevations (and the 12m minimum for front to front). A reduced distance is generally accepted between front elevations as they are subject to general overlooking from the street itself. As such the impact upon neighbouring amenity is acceptable.

It is therefore considered that the proposed development would not have any significant impact on the amenity levels of the occupiers of these neighbouring properties. This is because the proposal would not cause any loss of privacy or result in any overshadowing of neighbouring properties or amenity spaces. As such it is in accordance with the above Guidance and with the NPPF.

### Highway issues

The site would be provided with appropriate levels of parking for each property and the turning facilities within the private drive are also acceptable and no objections are raised to the general layout subject to standard conditions and the provision of an improved visibility splay.

Therefore subject to recommended conditions the proposal would comply with the requirements detailed within UDP Policy T6 'Location and Layout of Development', which states that the Council, in considering the location of new development, will have regard to the increasing desirability of reducing travel demand.

An existing bus shelter on the Vale Road frontage would need to be demolished to accommodate accesses to the site and a condition has been attached requiring its replacement.

### Affordable housing contribution

It was accepted with the original approval that the proposal was not financially viable if the policy position of 25% Affordable Housing had to be met. The applicants produced their own "in house" viability appraisal which showed that the scheme would produce a profit of 9.54%. The Council's Affordable Housing Manager considered that a profit of 11.94% could be possible, although this would still be below the accepted level developer profit of 15-20%.

The amended scheme which the Council is now considering involves marginal changes to 8 of the 12 plots to provide 4 bedrooms as opposed to 3 bedrooms. The Council's Affordable Housing Manager does not consider that such a minor alteration to the plots would make the scheme viable for affordable housing.

## **Conclusion**

Having regard to the above it is noted that the site is allocated for Residential purposes on the UDP and that the proposal is acceptable in principle, with a recent permission being granted for 14 dwellings on the site.

Furthermore the addition of new dormer windows would be acceptable in terms of their size and design and it is considered that they would be in keeping with the immediate surrounding area and would not have an adverse impact on the streetscene. The proposed development would not be detrimental to the occupiers of neighbouring properties by being overbearing, nor would it result in any overshadowing or loss of privacy due to its siting and relationship with neighbouring properties.

The proposals would not be detrimental in highway safety terms with adequate parking on site. Furthermore the site is considered to be located in a sustainable location with access to a range of transport options.

As such the proposal complies with the NPPF, NPPG, UDP, Core Strategy and South Yorkshire Residential Design and is subsequently recommended for approval.

## **Conditions**

01

The development hereby permitted shall be commenced within 3 years of the original permission RB2014/1282 (being 18/07/16).

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below):

- JBA.3229.101 - Topographical Drawing
- JBA.3229.103.C - Plots One and Two Details
- JBA.3229.104.B - Plots Three and Four Details
- JBA.3229.105.B - Plots Five, Six and Seven Details
- JBA.3229.106.C - Plots Eight and Nine Details
- JBA.3229.107.D - Plots Ten and Eleven Details
- JBA.3229.108.B - Plots Twelve and Thirteen Details
- JBA.3229.109.B - Plot Fourteen Details
- JBA.3229.110 - Garage Details
- JBA.3229.111 - Boundary Details and Landscaping
- JBA.3229.112.B - Site Sections
- JBA.3229.202.A - Site Plan and Location Plan

Reason

To define the permission and for the avoidance of doubt.

03

Prior to construction of the dwellinghouses details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted or samples of the materials left on site, and the details/samples shall be approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Core Strategy Policy CS28 – Sustainable Design.

04

Before the development is brought into use, that part of the site to be used by vehicles shall be constructed with either;

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and to encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of the adequate drainage of the site and road safety.

05

Before the development is brought into use visibility splays 2.4m x 33m shall be provided at the entrance to the private drive as indicated (shaded red) on the attached copy plan. The visibility splay shall form part of the adopted highway.

Reason

In the interest of highway safety.

06

Details of road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority, and the approved details shall be implemented before the development is brought into use, or as otherwise agreed in writing with the Local Planning Authority.

Reason

No details having been submitted they are reserved for approval.

07

A scheme shall be submitted to and approved in writing by the Local Planning Authority detailing how the use of sustainable/public transport will be encouraged. The agreed details shall be implemented in accordance with a timescale to be agreed by the Local Planning Authority.

Reason

In order to promote sustainable transport choices.

08

Prior to construction of the dwellinghouses, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
- The extent of any changes to existing ground levels, where these are proposed.
- Any constraints in the form of existing or proposed site services, or visibility requirements.
- Areas of structural and ornamental planting that are to be carried out.
- The positions, design, materials and type of any boundary treatment to be erected.
- A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- A written specification for ground preparation and soft landscape works.
- The programme for implementation.
- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme within a timescale agreed, in writing, by the Local Planning Authority.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

09

Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

10

The existing hedge positioned at the North Western corner of the site adjoining Silverwood Farmhouse shall be protected by the erection of a strong durable 2 metre high barrier fence in accordance with BS 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas. The hedge shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

11

In the event that during development works unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. Works thereafter shall be carried out in accordance with an approved Method Statement. This is to ensure the development will be suitable for use and that identified contamination will not present significant risks to human health or the environment.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12

In all proposed gardens and areas of soft landscaping a clean soil capping layer of 450mm of subsoil and 150mm of topsoil will be required. Site soils used for garden areas will require testing at a rate of 3 samples per 250 cubic metres for metals, metalloids, PAH and asbestos to ensure they are free from contamination. The results of testing will be presented to the Local Planning Authority in the format of a Validation Report.



Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13

If further soils are required to be imported to site for garden and soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of the testing shall be presented in the form of a validation report.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14

Details of bat roost features to be incorporated into the development shall be submitted to the Local Planning Authority for approval and shall thereafter be implemented in accordance with the agreed details before the development is brought into use.

Reason.

In the interests of the local ecology in accordance with advice in the NPPF.

15

Prior to the demolition of the existing bus shelter and before any development on the site is brought into use, a new bus stop pole shall be installed opposite 10 Vale Road, in accordance with details approved by the Local Planning Authority.

Reason

In the interest of highway safety and to provide adequate access to public transport.

**Informatives**

01

It is recommended that the following advice is followed to prevent a nuisance/ loss of amenity to local residential areas. Please note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust. If a statutory nuisance is found to exist they must serve an Abatement Notice under the Environmental Protection Act 1990 .Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in Rotherham Magistrates' Court. It is therefore recommended that you give serious consideration to the below

recommendations and to the steps that may be required to prevent a noise nuisance from being created.

(i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 – 18:00 Monday to Friday and between 09:00 – 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

(ii) Heavy goods vehicles should only enter or leave the site between the hours of 08:00 – 18:00 on weekdays and 09:00 – 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

(iii) Best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

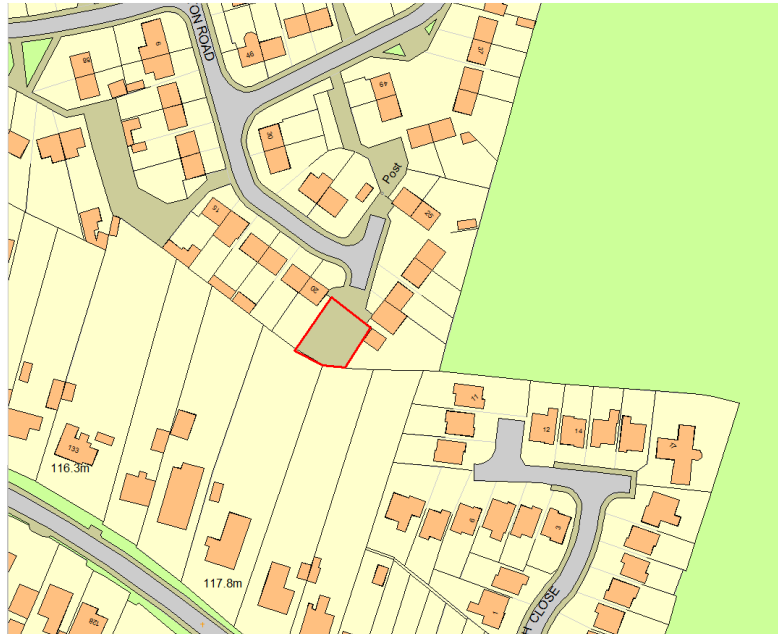
(iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

#### POSITIVE AND PROACTIVE STATEMENT

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.

|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | RB2016/1206   |
| <b>Proposal and Location</b> | Use of land as extension to garden area at 21 Milton Road, Dinnington |
| <b>Recommendation</b>        | Grant subject to conditions   |

This application is being presented to Planning Board due to the number of objections received by the Council.



### Site Description and Location

The site of application consists of a parcel of land that formally comprised of a garage court on land adjacent to No. 21 Milton Road. The land is approximately 329 square metres and is roughly rectangular in shape. The site is accessed from Milton Road off the hammer head at the end of the cul de sac.

### Background

There is no relevant planning history on the site. The site in question was sold to the applicants by the Council for use as private garden land in 2014. The Council has received a number of complaints about the site being used for car repairs. The Council is investigating this as a separate matter.

### Proposal

The proposal is to change the use of the land from a car parking area into private residential garden use. There are no buildings proposed to be constructed on the land as part of this application. This application is only to consider the use of the land for garden use and is not for the use of this land for car repairs.

## **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP) (noted in Appendix B of the Core Strategy). The Rotherham Local Plan 'Publication Sites and Policies' was published in September 2015.

The application site is allocated for 'Residential' purposes in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS28 'Sustainable Design'

## **Other Material Considerations**

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

The Core Strategy policy referred to above is consistent with the NPPF and has been given due weight in the determination of this application.

## **Publicity**

The application was advertised by way of site notice along with individual neighbour notification letters to adjacent properties. The Council has received 7 objections from neighbouring residents objecting to the application. The comments raised are all in relation to allegations of a car repair business taking place at the site. None of the objections raised specifically relate to the change of use of the land to a private garden area. The comments raised shall be summarised below:

- Object to the use of the site for a car repairs business.

- The car repairs business is causing noise and disturbance and is unsightly.
- The car repairs business is dangerous in terms of highway safety and is risk to local residents and could restrict emergency vehicles from accessing neighbouring property.

The applicant has written a letter in support of the application stating that they are not running a business from the site or from their property. They go on to state that the Council have previously investigated allegations of business use at the site and found nothing to suggest that a business is being run from the property. They have also stated that they have received verbal and physical abuse from neighbours.

### **Consultations**

Streetpride (Transportation and Highways): Raise no objections to the change of use in highway safety terms and to the loss of parking as neighbouring properties have on curtilage parking or have the potential to form some.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main issues to take into consideration in the determination of the application are –

- The principle of the development
- Impact on the residential amenity of neighbouring residents
- Visual impact on the host property and the surrounding area
- Impact on highway safety
- Other issues raised by objectors

### **Principle of development**

The site is allocated for residential purposes in the adopted Rotherham UDP. The application is for domestic development in the form of changing the use of the land from a car park into a residential garden. The Transportation Unit notes that in the vicinity of the site neighbouring properties have the benefit of curtilage parking or have the potential to provide such facilities.

As such, it is considered that this proposed change of use is entirely appropriate within an area of land designated for residential purposes and therefore there is no conflict between the adopted Plan for the site.

#### Impact on the residential amenity of neighbouring residents

The NPPF notes at paragraph 17 that: “Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should (amongst others):

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.”

It is considered that the change of use of this land from a garage court to residential garden land would not have any material impact on the residential amenity of neighbouring residents. As such, it is considered to be acceptable in this respect.

#### Visual impact on the host property and the surrounding area

In assessing the visual impact of the proposed garden extension in relation to the existing property and the surrounding area, Core Strategy Policy CS28 ‘Sustainable Design’ states that “Design should take all opportunities to improve the character and quality of an area and the way it functions.”

The NPPF notes at paragraph 56 that: “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

“The National Planning Policy Guidance (March 2014), notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations. The NPPG further goes on to advise that: “Local planning authorities are required to take design into consideration and should refuse permission for development of poor design.”

It is considered that the main visual impact of the proposed garden extension is the boundary treatment around the site. The front boundary is the most prominent and does not appear to have been altered, other than the erection of gates which are set back more than 1m from the highway boundary and do not exceed 2m in height. As such, they do not need permission in their own right. Other fencing has been erected around other parts of the boundary of the site and is considered to be of an acceptable design and appearance and not to harm the character and appearance of the surrounding area.

The land in question is visible from Milton Road. It is considered that its use as residential garden land would not alter the character and appearance of the streetscene and the surrounding area.

#### Highway impact

The loss of the former parking area has been addressed above. It is noted that concerns have been raised about highway safety in relation to use of the site for car repairs. Whilst this is noted, this is not part of this application and cannot be taken into consideration. The Council's Transportation Unit have raised no concerns in highway safety terms for the change of use of the land to residential garden area and as such it is considered that the development would not have a detrimental impact in highway safety terms.

#### Other issues raised by objectors

It is noted that a number of objections have been received from neighbouring residents all objecting to the use of the site for car repairs. Whilst this is noted it is not a material consideration in regards to this application as this application is for the change of use of the land for residential garden use.

If the use of this land for car repairs was at a level where it was considered that a material change in the use of the land had occurred than this would require a planning application in its own right and owing to the residential nature of the area it is very unlikely to be supported.

These allegations are currently being investigated by the Planning Enforcement Officer as a separate matter.

#### **Conclusion**

Taking account of the above, it is considered that the proposed change of use of the former garage court to residential garden land would not harm the character and appearance of this site or have a detrimental impact on the wider locality and streetscene.

Additionally the proposal is not considered to have any detrimental impact on the residential amenity of adjacent occupiers and as such accords with both local and national planning guidance.

It is considered that the development would not harm highway safety.

Taking all of the above into account, it is therefore recommended that the application is granted planning permission subject to the imposition of the suggested conditions as set out below.

#### **Conditions**

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Site Plan)(received 12/09/2016)

Reason

To define the permission and for the avoidance of doubt.

**POSITIVE AND PROACTIVE STATEMENT**

Whilst the applicant did not enter into any pre application discussions with the Local Planning Authority, the proposals were in accordance with the principles of the National Planning Policy Framework and did not require any alterations or modification.



|                              |   |
|------------------------------|---|
| <b>Application Number</b>    | <b>RB2016/1286</b>  |
| <b>Proposal and Location</b> | Siting of portable building to provide outside bar at The Masons Arms Public House Bawtry Road Wickersley Rotherham S66 2BW |
| <b>Recommendation</b>        | Grant subject to conditions   |

This application is being presented to Planning Board as more than 5 objections have been received.



### Site Description and Location

The application relates to an existing public house which is located on a corner plot between Northfield Lane and Bawtry Road adjacent to Wickersley roundabout. The site frontage is on Bawtry Road which is a busy classified highway with the telephone exchange to the west of the site and residential properties to the rear on Willow Court, and across Northfield Lane and Bawtry Road, in addition to commercial properties on the opposite side of Bawtry Road, adjacent to the roundabout.

The building is situated to the front of the site with an outdoor seating area between the front elevation and the highway. Car parking areas are situated to both sides of the building and to the rear with vehicular access from Northfield Lane.

The rear boundary is screened from the adjacent residential properties by fencing and mature trees with landscaping to the side boundary consisting of trees and bushes to the Northfield Lane side and low level bushes to the Bawtry Road side. A covered outdoor patio area is located to the western side of the building.

## Background

There have been several applications relating to the existing public house, the most recent and relevant are:

RB2007/0259 – Formation of covered external seating area.  
Granted

RB2007/2274 – Installation of two canopies to existing front patio.  
Granted conditionally

RB2008/1007 – Single storey extensions to rear and both sides and formation of covered decking to front and side.  
Granted conditionally

RB2010/0581 – Single storey rear extensions.  
Granted conditionally.

RB2015/0437 – Single storey side extension.  
Granted conditionally

RB2016/0511 - Installation of shipping container and alterations to wall/fence.  
Refused for the following reason:

01

The Council considers that the siting of a metal storage container to the front of the existing public house would, by virtue of its design, position and metal construction, create an incongruous and intrusive feature in the streetscene which would be detrimental to the character and appearance of the area contrary to Core Strategy Policy CS28 'Sustainable Development,' and the aims of the National Planning Policy Framework and the National Planning Policy Guidance.

## Proposal

The application seeks full planning permission to position a timber clad portable container, indicated to be 2m x 4m x 2.5m high, to the eastern side of the front elevation of the building to provide outside bar facilities. The bar includes an opening serving hatch with hydraulic type hinges to keep it locked in open position during operating hours facing onto the existing patio area at the front of the public house along with a single door opening to the side.

The existing fencing between the current car park and patio area is to be removed and replaced with 0.7m high close boarded fencing between brickwork piers in front of the proposed bar adjacent to the patio area.

The submitted details indicate that the container is proposed to be clad in 19mm thick 125mm wide stained timber to all four sides and the flat roof, with a 150mm overhang on the roof.

No proposed hours of operation have been included in the application, however it has been indicated that a liquor licence has been issued for the external bar allowing alcohol to be served every day until midnight. Subsequent discussions with the applicant have identified that they would not require the bar to be open later than that, and it is more likely it will close well before then.

### **Development Plan Allocation and Policy**

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP) (noted in Appendix B of the Core Strategy)..

The application site is allocated for 'Retail Use – Town Centre' in the UDP and is also within the Prime Shopping Street in Wickersley. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS27 'Community health and safety'

CS28 'Sustainable Design'

CS29 'Community and Social Facilities'

Unitary Development Plan 'saved' policy(s):

ENV3.7 'Control of Pollution'

RET1.2 'Prime Shopping Streets'

### **Other Material Considerations**

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27<sup>th</sup> 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

The Core Strategy/Unitary Development Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

## Publicity

The application has been advertised by way of individual letters to adjacent occupiers and by a site notice displayed close to the site.

Letters of objection have been received from 4 local residents, their concerns can be summarised as follows;

- The noise will be intolerable, already woken every night at the weekend as people pass the house at 2am.
- If they can drink outside as well the noise will be unbearable.
- They have previously had a music festival there and for two whole days couldn't hear the television.
- It's a residential area, when we moved here pubs closed at 11pm.
- The noise from the Masons is already too much for a residential area
- This will encourage more people to drink outside creating further noise.
- The children are woken frequently by the noise levels and by people leaving the premises at all hours.
- This will be a traffic hazard as revellers spill onto the pavement.
- This will make more room for people to travel from other areas
- This was a village pub but has now become the best area for partying.
- More customers means more noise and disturbance.
- Drunken revellers and fast moving traffic is not a good mixture.
- A recent music festival had noise levels high enough to attract a Noise Abatement Order.
- This application will make life worse for people who live nearby who already have to put up with a reduction in their quality of life due to increased licencing hours.
- Willow Court, which was built for older people, is very close and they must already get a lot of noise from customers leaving the pub.
- This will add to the ongoing problem with overflowing waste bins which causes an unsightly, unhealthy problem.
- This will do nothing to add to the outlook or peace and quiet of other neighbours on Northfield Lane and Bawtry Road.
- Not actually affected by the noise but as a long term resident of Wickersley would like it to continue to be a place where people are happy to live.
- Would ask members to consider if they would like to have such a potential problem anywhere near their home.

The occupiers of a property on Foster Road have requested that members of the Planning Board visit the site

One letter of objection has also been received from Wickersley Parish Council with a petition containing 11 names and addresses of Parish Councillors who wish to object individually to the proposals.

The objections raised by the Parish Council can be summarised as follows;

- An external bar is out of keeping with the location.
- It will encourage external activity which is not in line with any license issued.

- It will push noise and disputes to the outside of the premises.
- Noise complaints are received for premises in Wickersley and an outside bar increases noise in the area

One resident and one of the named Parish Councillors have requested to speak at the Planning Board meeting.

### **Consultations**

Streetpride (Transportation and Highways) Unit: Raise no objections in terms of highway safety.

Neighbourhoods (Environmental Health): Note that Wickersley has a thriving night time economy with all the bars in the vicinity being extremely busy. They note that The Masons already has a large existing outdoor area where people drink and congregate throughout the evening. They consider that there is potential from noise nuisance with more patrons being encouraged to drink at the outside bar. In consideration of this they recommend that the use of the external bar closes at midnight at the latest.

### **Appraisal**

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main issues to take into consideration in the determination of the application are –

- The principle of the development
- The visual appearance
- General amenity issues

#### The principle of the development:

The application relates to an existing public house with a long established use which is located within an area allocated for Retail (Town Centre) use in the adopted Unitary Development Plan and is situated on a corner plot adjacent to both retail and residential areas.

Core Strategy Policy CS29 'Community and Social facilities,' supports the retention and enhancement of existing facilities and states that the Council will

support the retention, provision and enhancement of a range of community and social facilities in locations accessible by public transport, cycling or on foot which enhance the quality of life, improve health and well-being and serve the changing needs of all of Rotherham's communities. Social interaction, whether for recreational, educational or social reasons, is vital to the development of a healthy community.

Policy RET1.2 'Prime Shopping Streets' requires proposed developments to contribute to the vitality and viability of the centre and not to undermine its retail character and function.

The NPPF at paragraph 19 states: "The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."

The NPPF at paragraph 23 states that "Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should: (amongst other things)

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;"

Furthermore the NPPF at paragraph 70 states that "To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;"

The proposal relates to an existing facility with a long established use as a public house, located on the edge of the retail area in Wickersley. The building has been sympathetically extended and altered several times over the last few years and the expansion of local businesses and services is supported in principle.

#### The visual appearance:

In assessing the design of the proposals in relation to the existing building and the locality, Core Strategy Policy CS28 'Sustainable Design,' requires that development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.

The NPPF notes at paragraph 56 that: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and

should contribute positively to making places better for people.” Paragraph 64 adds that: “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The National Planning Policy Guidance (March 2014), further notes that “Development proposals should reflect the requirement for good design set out in national and local policy. Local Planning Authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations. The NPPG further goes on to advise that: “Local Planning Authorities are required to take design into consideration and should refuse permission for development of poor design.”

The existing building is located in a prominent position on a corner site in Wickersley, and is an attractive site with mature trees and planting and low level walls. The proposed position of the bar would be located adjacent to the existing seating area forward of the front elevation of the building.

The previous application for the proposed siting of the storage container to the front of the property adjacent to the external seating area in a highly prominent position in the centre of the village was considered to form both an incongruous and intrusive feature in the streetscene creating a significant and harmful effect on the character and appearance of the locality. However, the proposal now put forward to fully clad the container in stained timber, albeit in the same proposed location, is considered to alleviate the concerns with regard to the appearance.

The submitted details indicate that the container would be clad with stained hardwood timber and positioned adjacent to the existing patio within the side car park area. Whilst this is forward of the existing building it is considered that the proposed size, materials of construction and the position being partially screened by existing boundary screening would result in a development which would not be materially harmful to the visual amenity of the existing building or the streetscene.

As such the proposals are considered to be acceptable and to comply with the requirements of the above policies and guidance.

#### General amenity issues:

With regard to residential amenity issues, ‘saved’ UDP Policy ENV3.7 ‘Control of Pollution,’ states that “The Council in consultation with other appropriate agencies will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.”

Core Strategy policy CS27 ‘Community Health and safety’ notes that “Noise and vibration can be a serious cause of nuisance and can affect quality of life. Planning can make sure that potential noise creating uses, including industrial processes or some recreational activities, are not in places where they would be likely to cause nuisance.”

The NPPF further notes at paragraph 123 that: "Planning ... decisions should aim (amongst others) to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development."

The NPPG states that "Some commercial developments including fast food restaurants, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity."

Whilst it is acknowledged that the proposed use of the outside bar may result in an increase in noise levels due to more people using the outside area, it should be noted that this area is already in use as an outdoor drinking area and is located to the front of the premises adjacent to the busy classified highway and Wickersley roundabout.

Additionally there are several other drinking establishments in close proximity to the site, including The Olive Lounge (which Members may recall has recently been granted planning permission for a similar external bar), The Courtyard and The Three Horseshoes, all of which have outdoor seating/drinking areas, in addition to several restaurants and take-aways on Bawtry Road and the adjacent Tanyard shopping centre.

Objections have been raised from local residents and Wickersley Parish Council with regard to existing noise from the premises and people leaving the area late at night and from the potential increase in noise arising from the use of the building as an outside bar area.

Whilst there are residential properties in close proximity to the site, it should be acknowledged that this is a well-established public house with existing outdoor drinking areas and the proposed bar would be located to the front of the premises adjacent to the existing patio and the busy classified highway. The Masons, having a long established use, currently has no restrictions on opening hours, from a planning point of view. The Licencing Authority has confirmed that the premises have a licence to open the outside bar every evening until midnight, with the pub itself (including outside drinking areas) having a licence for the sale of alcohol on Monday – Wednesday from 0800 – Midnight and Thursday – Sunday from 0800 – 0200 with the premises license finishing half an hour after this each day.

The applicants have indicated that they do not wish to open after the authorised midnight hour as set out in the liquor licence, and indeed are more than likely to close it well before then. It is not considered that the proposal would generate a significant increase in the current noise levels over and above those which exist at the premises and should not increase the noise levels generated by people leaving the premises at closing time. Environmental Health Service is of the opinion that a midnight closing time would be acceptable. Bearing in mind the unrestricted use of the site from a



planning point of view it is considered reasonable to restrict the opening of the outside bar until midnight and a condition is recommended in this respect.

Additionally a condition preventing any music being played outside the premises is also recommended.

Taking all of the above into account, it is considered that, subject to the recommended conditions, the proposal would not generate a significant increase in the noise levels over and above those which currently exist at the premises.

## **Conclusion**

In conclusion, taking into account the location of the proposed bar to serve an existing public house in a busy 'Town Centre' where there is currently a vibrant night time economy, it is considered that the provision of this facility would not be detrimental to either the visual appearance of the locality or result in any significant increase in the current level of noise and activity in the area, subject to the recommended conditions.

The application is therefore recommend for approval subject to the following recommended conditions.

## **Conditions**

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Drawing numbers 03, 04, 05 Rev A, 06 Rev A, 07 Rev A )(received 22 September 2016)

Reason

To define the permission and for the avoidance of doubt.

03

The external bar hereby permitted shall only be open to customers or for deliveries between the hours of 1100 – 0000 on Mondays to Sundays.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

04

No external music shall be played outside the premises.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

05

Details of the timber cladding to be used on the outside bar, including stain colour, shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented.

Reason

In the interest of visual amenity and in accordance with Core Strategy Policy CS28 'Sustainable Design'.

#### POSITIVE AND PROACTIVE STATEMENT

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.

To the Chairman and Members of the  
**PLANNING REGULATORY BOARD**

Date 17<sup>th</sup> November 2016

Report of the Assistant Director of Planning and Regeneration Service

ITEM NO.    SUBJECT

1            Proposed Tree Preservation Order No 5, 2016 –  
              Land at 108 Main Street Bramley

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY  
BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO BOARD  
17<sup>TH</sup> November 2016**Item 1****Proposed Tree Preservation Order No 5, 2016 – Land at 108 Main Street Bramley****RECOMMENDATION:**

**That Members confirm the serving of Tree Preservation Order No. 5, 2016, without modification with regard to the 2 trees the subject of this report, situated on land at 108 Main Street Bramley under Section 198 and 201 of the Town and Country Planning Act 1990.**

**Background**

An application for redevelopment of this site was granted planning permission on 21<sup>st</sup> June 2016 (reference RB2016/0114). As part of the application process the Tree Service Manager noted that there are three trees on the site, being trees T1 Sycamore, T2 Silver Birch and T3 Sycamore. T1 and T2 were identified as the better amenity trees with reasonably good future prospects and their retention was considered desirable as they help provide valuable and important amenity to the area and are easily visible from the public highway and surrounding properties. He recommended that T1 and T2 should be protected by a new Tree Preservation Order.

A Tree Preservation Order was placed on two of the trees on site under a new TPO (ref: No. 5 2016) on 20<sup>th</sup> July 2016 and all interested parties notified.

## Objections

An objection was subsequently received from Anderson Tree Care who act on behalf of Mr Long of AEON Financial Services Ltd. The objection states that the planning permission contains 6 conditions relating to the trees and their protection throughout the build of the project, and that the TPO was served some time after the planning permission was granted, and came 'out of the blue' having not been discussed with the client's architect and Planning Officer.

Objections raised are on the following grounds –

- It is not expedient.
- The trees have insufficient amenity value to justify protection.
- Concerns about the size of T1 and if not controlled there is a significant risk of damage to property, blocking of light and risk of damage to property or injury to persons from falling branches.
- The 'TEMPO' tree appraisal system is not a proper system of amenity valuation and therefore irrelevant.
- 

A late representation has also been received from Fernie Greaves on behalf of the freehold owner of 110 a, b & c Main Street. This states that there is concern about the size of the Tree T1 as it currently overhangs 110 Main Street. If the size of the tree is not controlled there is a significant risk of root damage to the client's property, blocking of light and the risk of damage to property or injury to persons from falling branches from the tree.

The Tree Service Manager has considered the objections raised and has commented as follows:

### The Tree Preservation Order is not expedient

The objector states that the trees are under good management and the Order is unnecessary. He states the trees could have been removed before making an application to develop the site, planning Ref No RB2016/0114. However, because they did not remove them this indicates they are aware of their responsibility to the Borough's landscape and the trees' contribution to the landscape.

T1 and T2 were not subject to any regulations prior to the Order being made and the owner could have removed them as well as an additional Sycamore prior to submitting an application to develop the site. This would have saved the owner the expense of providing a tree survey report to support the planning application, as well as any additional costs associated with their retention as part of the development e.g. special design and construction measures within their root protection areas, RPA's, in accordance with BS 5837 Trees in Relation to Demolition, Design and Construction. However, T2 was shown to be removed on the original site plan to develop the land to accommodate 2 new semi-detached properties to the north of the site, Robin Ashley Architects Dwg No 15-005-05 dated October 2015.

Also, no information was provided to show how it was intended to retain and safeguard the future prospects of T1 and T2 as part of a revised site layout plan, Robin Ashley Architects Dwg No 15-005-05 Rev G (27-05-16). Without this information the future prospects of the trees appeared to be at risk. This is because the development included changes to existing surfaces and excavations within their RPA's that are potentially

harmful unless they are carried out carefully in accordance with the above British Standard and current good Arboricultural practice. For this reason their future prospects were perceived to be at risk and they were recommended for inclusion in a new Order as a holding measure.

The trees have insufficient amenity value to justify protection

The objector believes the trees do not merit protection and disagrees with the TEMPO evaluation scores for both trees. A summary of the 2 TEMPO evaluation forms is as follows.

|   | <b>T1 Sycamore</b>               | <b>T2 Silver Birch</b>           |
|---|----------------------------------|----------------------------------|
| Part 1: Amenity Assessment  |                                  |                                  |
| a) Condition and suitability  | 5                                | 3                                |
| b) Retention span (in years) and suitability for Tree Preservation Order                    | 4                                | 2                                |
| c) Relative public visibility and suitability for Tree Preservation Order                   | 4                                | 4                                |
| d) Other Factors (trees must have accrued 7 or more points (with no zero score) to qualify) | 1                                | 1                                |
| Part 2: Expediency Assessment<br>(trees must have accrued 9 or more points to qualify)      | 2                                | 2                                |
| Overall Score   | 16                               | 12                               |
| Part 3: Decision Guide  | Recommend inclusion in a new TPO | Recommend inclusion in a new TPO |

T1 Sycamore

1a) The objector considers the score is optimistic because T1 surrounded by tarmac and concrete and these are not good growing conditions for its future prospects.

The evaluation notes state outwardly T1 appears in reasonably good condition with reasonably good future prospects. It is agreed the surrounding ground surfaces do not provide ideal growing conditions and this may influence the ultimate size and age of T1. However, despite this T1 appears to be growing well and there is no evidence to suggest it is in reduced or poor condition that would qualify a reduced score. Indeed, it is noted that the objector reported T1 tree to be in good condition and growing vigorously in his original tree report for the site dated, June 2016. Also, the proposed development involves changes within part of RPA of T1 that are likely to be beneficial to its future

prospects with the use of permeable materials that should increase the amount of moisture to the roots.

1b) The objector considers the score to be highly optimistic and believes pruning is overdue as indicated in his previous report. He states the tree should score a zero as it is an existing nuisance.

The age of T1 has been estimated at approximately 90 years based on its stem circumference of 2.26m (90.4 inches). The average growth rate of broadleaved trees with a full crown is 2.5cm (1 inch) girth per year as indicated by Alan Mitchell - Field Guide to Trees in Britain and Northern Europe, Collins. The general life expectancy of Sycamore is 200 to 300 years. Taking in to account its position and the existing and proposed site constraints a safe useful life expectancy of 40 to 100 years does not appear unreasonable.

The pruning referred to in the previous report was to low overhanging branches only. This does not involve extensive pruning and permission has not been granted to prune T1 as part of RB2016/0114 as stated by the objector. If the Order is confirmed a small amount of careful pruning could be supported to help maintain adequate clearance above ground level and help ensure it is maintained in a safe and healthy condition. The Tree Service Manager does not agree that because it needs pruning in this way it has outgrown its position. Also, he is not aware of any evidence to substantiate the claim it is a 'nuisance' in a legal sense. Therefore, unless any evidence is provided to show it is causing any difficulties that cannot be resolved without removing T1, this does not appear to be a reason not to confirm the Order as it stands.

1c) The objector believes the score to be overly generous but does not state what score he would award it under the TEMPO evaluation.

T1 is clearly visible from the highway and the approved development will not reduce the level of amenity it provides to the area. It is accepted it is not a very large tree but at 15m in height with a branch spread of 9m it is likely to be of an average size for its age and the site constraints. A reduced score would only apply if T1 was visible with limited view only.

1d) The objector believes the Sycamore is not suitable for its location and for this reason it should qualify for a score of minus 1 (-1).

Sycamore may not be popular urban trees, particularly where there are associated difficulties e.g. aphids that feed on their leaves and secrete a sticky sap commonly known as 'honeydew'. In addition they are regarded by some people as weed species as they often become self-set. A more attractive ornamental species may be more highly valued. However, ornamental trees may not tolerate the site conditions as well as the Sycamore. Also, the branches of T1 only overhang land used for car parking and there is approximately 4m between its branches and any nearby buildings. Therefore, the Tree Service Manager does not agree that it is unsuitable for its location.

### T2 Silver Birch

1a) The objector believes T2 does not have good future prospects considering the site constraints.

The evaluation notes state T2 appears in reasonably good condition with reasonably good future prospects. The objector notes the lower option of 'poor' is overstating the situation. Also the approved development includes changes to existing ground surfaces that should be beneficial to the future prospects of T2. Therefore, under the circumstances, the evaluation score appears reasonable.

1b) The objector considers the score to be optimistic considering it grows in a pub car park.

T2 is approximately 30 to 50 years. Silver Birch generally has a life expectancy of 80 years according to Alan Mitchell. Therefore, a life expectancy of 20 to 40 years may be considered optimistic if T2 is 50 years old. However, if it is 40 years old or less a life expectancy of 20 to 40 years does not appear unreasonable, particularly if the development results in beneficial changes to its growing conditions.

1c) The objectors opinion is that Silver Birch are only ever likely to be small trees, but acknowledges T2 is a decent size at 14m in height but not as big as the Sycamore.

T2 is 15m in height with an average branch spread of 12m diameter and a clear main stem of 2m. This gives an area of 156m<sup>2</sup>. This qualifies it for a score of 7 under the Helliwell System (150 to 200m<sup>2</sup>) rather than 5 (50 to 100m<sup>2</sup>) as indicated by the objector. Because of its size and its position adjacent to the highway, the allocated score under the TEMPO system appears reasonable.

1d) The objector has not made any comments about this part of the evaluation so it appears the allocated score is not disputed.

### Part 2 Expediency

The evaluation notes indicate there was a perceived threat to the future prospects of T1 and T2 due to the proposed development as previously discussed above.

In summary it is felt the TEMPO evaluations for T1 and T2 have not been overly optimistic as stated by the objector. The TEMPO template had been updated, unknown to the Tree Service Manager, prior to the date of the evaluation, though he concludes that this is unlikely to have affected the overall score for T1 and T2 or the recommendation to protect them with a new Order.

Concerns about the size of T1 and if not controlled there is a significant risk of damage to property, blocking of light and risk of damage to property or injury to persons from falling branches.

The concerns associated with the size of the tree are fully appreciated and understood. However, it is not the size of a tree that makes it potentially unsafe, it is its condition. Regular inspections to ensure it is free of any significant defects and carrying out any work necessary to ensure it is maintained in as safe and healthy condition, subject to any regulations, will help to minimise the risk of any personal harm and or damage to property. Due to its position to the north of the existing buildings on Main Street it is unlikely to cause serious difficulties of shading towards the buildings although parts of the car park at the rear of 110 Main Street will be shaded throughout the day particularly when the tree is in leaf.



The TEMPO tree appraisal system is not a proper system of amenity valuation and therefore irrelevant.

The Government's advice in the National Planning Practice Guidance (NPPG) states that,

*"When deciding whether an Order is appropriate, authorities are advised to take into consideration,*

- *what 'amenity' means in practice*
- *what to take into account when assessing amenity value*
- *what 'expedient' means in practice*
- *what trees can be protected and*
- *how they can be identified*

*When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission".*

The TEMPO system, Tree Evaluation Method for Preservation Orders, was designed as a field guide to decision making and is presented on a single side of A4 as an easily completed pro-forma. It has undergone a number of minor revisions since its inception and stands as a record that a systematic assessment has been undertaken. It considers all of the relevant factors in the Tree Preservation Order decision making chain including amenity and expediency. It may be used for new Order's or for re-surveying old ones. For these reasons it appears to be in accordance with the Government's advice and is fit for purpose.

#### Additional comments from Mr Anderson

The additional comments within the letter from Mr Anderson do not appear to be relevant to the objection as they relate to the Council's procedure for making Tree Preservation Orders and considering any representations and the Council has responded separately in that respect.

#### **Conclusion**

It is considered that the objections to the Order have been carefully considered and that the Order has been made in accordance with Government guidelines. In this instance, it is recommended that the Order is confirmed without modification.