

PLANNING REGULATORY BOARD

**Date:- Thursday, 6th June, 2019 Venue:- Town Hall,
Moorgate Street,
Rotherham. S60 2TH**

Time:- 9.00 a.m.

Meetings of the Planning Board can all be viewed by live webcast by following this link:-
<https://rotherham.public-i.tv/core/portal/home>

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
6. Deferments/Site Visits (information attached) (Pages 2 - 3)
7. Development Proposals (Pages 4 - 56)
8. Report of the Assistant Director of Planning Regeneration and Transport (Pages 57 - 64)
9. Updates

10. Date of next meeting - Thursday, 27th June, 2019

Membership of the Planning Board 2018/19

Chairman – Councillor Sheppard

Vice-Chairman – Councillor Williams

Councillors Atkin, Bird, D. Cutts, M. S. Elliott, Jarvis, Sansome, Steele, John Turner, Tweed,
Walsh and Whysall.



SHARON KEMP,
Chief

Executive.

Planning Regulatory Board 'Public Right To Speak'

REGISTERING TO SPEAK

The Council has a "Right to Speak" policy, under which you may speak in the Planning Board meeting about an application. If you wish to do this, it is important that you complete a tear-off slip and return it with any written comments, within 21 days of the date of the notification letter back to the Planning Department.

Your comments will be made known to the Planning Board when it considers the application and you will be written to advising of the date and time of the Planning Board meeting to exercise your right to speak

WHEN YOU ARRIVE

If you wish to speak in the meeting, please try to arrive at the venue ten minutes before the meeting starts. The reception staff will direct you to the Council Chamber.

In the Council Chamber, please give your name to the Board Clerk (who will have a checklist of names derived from the agenda). The Clerk will direct you to the seating reserved for people who wish to speak.

The agenda is available on line at least five days prior to the meeting, and a few copies will be made available at the meeting, so you can read the reported relating to the application which concerns you and see where it comes in the agenda.

The Council Chamber is equipped with microphones and a hearing loop

The meeting is being filmed for live or subsequent broadcast via the Council's website and can be found at:-

<https://rotherham.public-i.tv/core/portal/home>

If anyone present or members of the public in the public galleries do not wish to have their image captured they should make themselves known to Democratic Services before the start of the meeting.

This may require seating in a different area of the Chamber or in an alternative viewing room (if available).

Take time to familiarise yourself with the layout of the Chamber and the procedure.

YOUR RIGHT TO SPEAK

The 'right to speak' applies equally to the applicant and to the general public.

It is not intended that professional agents representing either the applicant or objectors, should be allowed to speak, but this is at the Chairman's discretion.

You will be invited to speak by the Chairman at the correct interval.

Switch the microphone on to allow everybody in the Chamber to hear your comments.

Each speaker will be allowed three minutes to state his/her case. The applicant does not have a "right to reply" to the objector(s) comments.

Only planning related comments can be taken into consideration during the decision process.

CONDUCT OF COMMITTEE MEETINGS

Speakers should not be allowed to engage in discussion with members of the Committee during public speaking or the Committee deliberations, to avoid any risk of accusation of bias or personal interest.

All attendees are reminded of the importance to remain calm, courteous and respectful during the meeting. Please refrain from shouting out and allow people to speak. Any person causing a disruption will be asked to leave the Council Chamber.

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.)

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 Assistant Director of the 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 Assistant Director of Planning, Regeneration and Transport 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 Assistant Director of Planning, Regeneration and Transport.
- 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 Chair and Vice-Chair 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 Chair 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 THE 6 JUNE 2019**

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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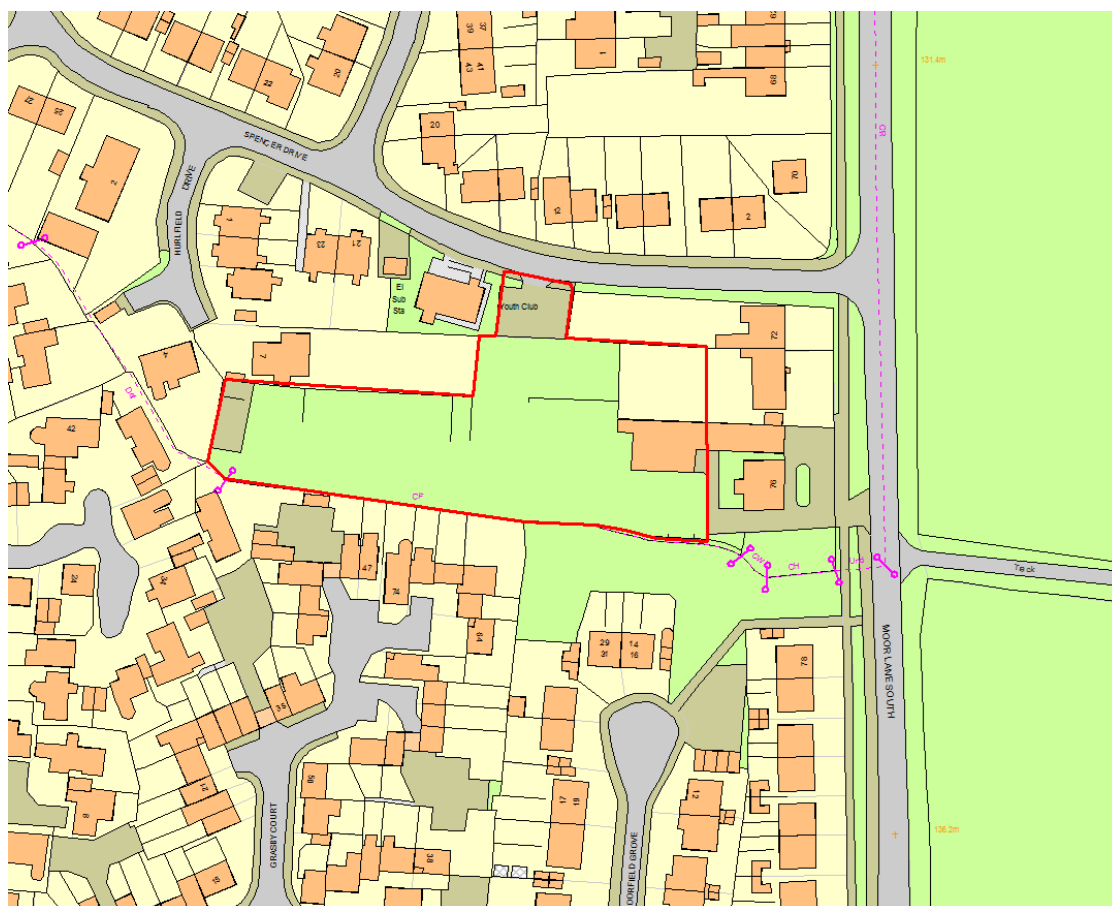
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REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 6 JUNE 2019

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.

Application Number	RB2019/0365
Proposal and Location	Erection of 9 No. dwellinghouse with associated garages at land to the rear of 76 Moor Lane South, Ravenfield
Recommendation	Grant Conditionally

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



Site Description & Location

The application site extends to approximately 0.38 hectares in area and is located on the southern side of Spencer Drive close to its junction with Moor Lane South. The site is currently vacant but was formerly used as a commercial plant and haulage yard.

It is set on a slightly higher level than Spencer Drive and there is a slight slope up from east to west within the site. The area around the site is predominantly residential in character with a mixture of brick built two storey houses and bungalows. Adjacent to the access off Spencer Drive is a single storey community building located on Spencer Drive.

Adjacent to the site, a development of 9 town houses is currently under construction on land immediately to the east.

Background

RB1968/5606 - Open fronted garage for road-repair plant – Granted Conditionally

RB1964/4505 – Re-siting of garage/workshop for contractors plant – Granted Conditionally

RB1962/3578 – Erection of Storage Building – Granted Conditionally

Community Infrastructure Levy

The development is Community Infrastructure Levy (CIL) liable. CIL is generally payable on the commencement of development though there are certain exemptions, such as for self-build developments. The payment of CIL is not material to the determination of the planning application. Accordingly, this information is presented simply for information. Environmental Impact Assessment

A screening opinion is not required for this development as it does not meet the thresholds set in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Proposal

The application seeks permission for the erection of 9 detached two storey properties sited around a new access road which will, in part, be adopted.

Four different house types are proposed, however they are all of a traditional appearance and incorporate projecting gables. All contain 4 bedrooms and have detached single garages.

The boundary treatment along the western elevation currently consists of a stone wall and it is proposed to raise this to 2.5m in height using matching stone work. The existing brick wall along the northern shared boundary with no. 7 Hurlfield Drive is also proposed to be retained. No detail has been provided on the treatment for the remaining boundaries.

The following documents have been submitted in support of the application:

Design and Access Statement considers the proposals in terms of local policy and national guidance and confirms that the development is in keeping with the surroundings and will not have a negative impact on highway safety.

Phase II Environmental Assessment confirms that the site is considered to represent a low risk with respect to contaminated land liability issues in its current condition. On this basis remediation work is not required.

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 the Sites and Policies Document which was adopted by the Council on the 27th June 2018.

The application site is allocated for residential purposes in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS3 'Location of New Development'
CS6 'Meeting the Housing Requirement'
CS7 'Housing Mix and Affordability'
CS14 'Accessible Places and Managing Demand for Travel'
CS28 'Sustainable Design'
CS33 'Presumption in Favour of Sustainable Development'
SP11' Development in Residential Areas'
SP26 'Sustainable Transport for Development'
SP55 'Design Principles'

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 27th 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 revised NPPF came into effect on July 24th 2018. It states that “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”

The Local 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 a site notice along with individual neighbour notification letters to adjacent properties. 8 letters of representation have been received. The main points are summarised below:

- Additional traffic on an already narrow street causing inconvenience to parking of present residents vehicles.
- Spencer Drive is not suitable for the amount of traffic which will be using it.
- The road needs to be widened.
- Houses on Spencer Drive do not have in curtilage parking facilities and rely on on-street parking or parking within the car park where the new access is proposed. If the development is approved these vehicles will have no option but to park on street causing more congestion.
- Spencer Drive is only a small two lane road and at times is only just passable by large delivery vehicles.
- Vehicles travel at excessive speeds along Spencer Drive, which is an accident waiting to happen.
- The proposals will affect families and as such the peace and quiet currently enjoyed by existing residents will be lost.
- The majority of local residents are pensioners and the development of family houses will affect us drastically.
- 2 of the houses will directly overlook our bungalow and private garden area from the first floor which will lead to a significant loss of privacy.
- As an alternative, bungalows should be built or the existing dwellings should be re-orientated 90 degrees to avoid any overlooking.
- The existing boundary treatment should not be demolished
- Due to the style of my home, the only light I get in my house comes from the conservatory looking out into the garden. This is my one and only living space and I feel that if the proposed building goes ahead not only will I have no light in my home, my privacy will be invaded by the house/houses being able to see into not only my garden but also into my living room.
- We will no longer be able to enjoy the peace and quiet that was the reason we bought the property in the first place.

- If the proposed building plans go ahead it will devalue my home, as it will no longer be a nice corner plot that is not overlooked. I have been happy in my home for nearly 14 years and I can't even begin to explain the stress and worry that these plans are causing me.

Consultations

RMBC – Transportation raise no objections to the proposed development subject to conditions.

RMBC – Landscape – acknowledge that the site is not located within a prominent location and as such raises no objections to the proposals subject to the imposition of a condition requiring the submission of a landscape scheme.

RMBC – Land Contamination raise no objections to the proposed development subject to suitably worded conditions

RMBC – Environmental Health – acknowledge that during the construction phase of the development it has the potential to give rise to noise nuisance complaints. Accordingly it is recommended that informatives are placed on any approval of planning permission advising the applicant of acceptable working practices.

Yorkshire Water – raise no objections to the proposed development.

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 considerations in the determination of the application are:

- Principle of development
- Design, scale and appearance
- General Amenity
- Highway safety

Principle of development

The application site is allocated for residential purposes within the Local Plan and lies within an area surrounded by existing residential properties. The site is a windfall site and although it is not allocated as a development site specifically in the Local Plan, it has become surplus to requirements and lies within a residential area. The development of the site will contribute to the provision of housing in the Borough and the use is consistent with the character of the surrounding area.

Furthermore, it is noted that at the heart of the NPPF, and as supported by Core Strategy Policy CS33 'Presumption in Favour of Sustainable Development', there is a presumption in favour of sustainable development, and planning permission that accords with the development plan should be approved without delay. It is considered that the site would be in a sustainable location given its close proximity to existing housing, facilities, services and local public transport.

Based on the above, in principle, the residential development of the site is considered to be acceptable.

Design, scale and appearance

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." Paragraph 17 further states planning should always seek to secure a high standard of design.

The South Yorkshire Residential Design Guide aims to provide a robust urban and highway design guidance. It promotes high quality design and development which is sensitive to the context in which it is located.

Policy CS21 states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the Borough's landscapes. In addition policy CS28 indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with well-designed buildings. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions. Core Strategy Policy CS6 'Meeting the Housing Requirement' further states that: "Housing development will be expected to make efficient use of land while protecting and enhancing the character of the local area."

Policy SP55, states: “all forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings”.

The site is set back from the road frontage and the development will not be prominent in the streetscene. Only plots 1-5 will be readily visible from Spencer Drive but will not be prominent due to the distance of the plots back from the road. The remaining plots will be screened from public view from surrounding roads by existing buildings on the road frontages.

The application seeks permission for the erection of 9 detached 4 bedroom dwellings. Four separate house types are shown; however they are not significantly different designs and incorporate similar features such as front projecting gables, canopies over front doors and contrasting heads and sills to windows. Properties surrounding the site vary in terms of their appearance and comprise of a mix of 2 storey dwellings and bungalows. It is acknowledged that the proposed dwellings do not take any design features from these properties, however given the site is not readily visible within any of these street scenes, the design and external appearance of the proposed dwellings are considered to be acceptable.

Taking all of the above into account the proposed dwellings are considered to be of an appropriate scale and design and therefore comply with policies CS21, SP55 and guidance contained within the NPPF and South Yorkshire Residential Design Guide.

General Amenity issues

Paragraph 127(f) of the NPPF states planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Local Plan policy CS27 ‘Community Health and Safety’ states: “Development will be supported which protects, promotes or contributes to securing a healthy and safe environment...” Policy SP52 ‘Pollution Control’ states: “Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity.”

In respect of amenity there are two elements:

- i) the impact of the construction phase on the existing local residents;
and
- ii) the impact of the development once constructed on the amenity of both existing local residents and future residents of the site

Impact of the construction phase on existing local residents

During construction some form of disruption is inevitable however, while some noise, dust and disturbance is to be expected with development works of this type, it is important to limit the impact of the works on nearby residents. Good construction practice and appropriate consideration of working hours should ensure that this occurs and it is recommended that standard informative on working practices should be added to any approval regarding the construction works and any breach would be covered by the Environmental Protection Act.

Impact of the development once constructed on the amenity of both existing local residents and future residents of the site

With regard to the impact of the dwellings once constructed on the occupants of existing properties that surround the site, it is noted that spacing distances between rear elevations of all plots to the rear boundary with properties on Hurlfield Drive, Grasby Court and future dwellings on Moor Lane South would be in excess of the required 10 metres

It is acknowledged that the properties on Hurlfield Drive and Laceby Close consist of bungalows and the introduction of two storey properties on the application site therefore requires careful consideration. As a result, during the application process an amended plan was submitted to pull plots 8 and 9 away from the eastern, shared boundary to provide a greater separation distance between them and no. 4 Hurlfield Drive. The length of the rear gardens of these properties now range between 11.6m and 12.8m. Furthermore, the internal arrangement of Plot 9 was altered to provide a bathroom window in the rear elevation closest to the boundary with No. 4 Hurlfield Drive. Accordingly a minimum of 21m between habitable room windows has been achieved. An additional plan showing the development in section has also been submitted, which demonstrates that plot 9 adequately clears the 25 degree vertical sight line as required by the South Yorkshire Residential Design Guide.

Accordingly, the proposed dwellings would not give rise to any overlooking or privacy issues. In addition, the proposed dwellings would not appear overbearing or oppressive when viewed from neighbouring properties or from within adjacent private rear gardens due to the spacing distances, land levels and boundary treatments; and would not give rise to any overshadowing or a significant loss of direct sunlight and / or natural daylight.

Having regard to the western boundary treatment, at the request of the occupier of No. 4 Hurlfield Drive, the applicant has offered to raise this to 2.5m in height to further prevent any loss of privacy from ground floor windows..

Further to the above it is acknowledged that all of the proposed dwellings meet the required separation distances between each other. As such, there would be no overlooking or privacy issues between properties and there would be no detrimental overshadowing of habitable room windows or private rear amenity spaces.

Therefore, it is considered that the scheme can be accommodated on the site and would satisfy the required spacing distances to ensure that there is minimal impact on the amenity of neighbouring residents. Accordingly, from the information outlined above it is considered that the proposal would comply with paragraph 127(f) of the NPPF, Local Plan policies CS27 'Community Health and Safety', SP52 'Pollution Control' and the South Yorkshire Residential Design Guide.

Transportation issues

Policy CS14 and Policy SP26, guide how accessibility should be addressed through development, whilst ameliorating travel behaviour. Policy SP26, states "as a priority, the proposals make adequate arrangements for sustainable transport infrastructure; promoting sustainable and inclusive access to the proposed development by public transport, walking and cycling, including the provision of secure cycle parking, and other non-car transport and promoting the use of green infrastructure networks where appropriate".

The site is considered to be located within a sustainable location close to public transport routes. Adequate off road parking provision has been incorporated within the site for each dwelling and the proposed access and associated visibility splay is considered to be acceptable in this instance.

It is noted that representations have been received regarding parking along Spencer Drive and that the impact of the development will lead to additional traffic, however the vehicular movements associated with 9 additional dwellings is not considered to be significant and will not, as a result have an adverse impact on highway safety. Additionally, a footway along Spencer Drive is not considered to be essential or justifiable, bearing in mind that day to day facilities, such as a bus stop etc. are to the north. As such pedestrians would be likely to use the existing footway on that side of Spencer Drive.

Representations have also been received about the loss of part of the car park associated with the community hall on Spencer Drive to accommodate the site access. It is noted that the community hall has been closed for a considerable time and the Council are not aware of any immediate plans to re-open it. The use of this area for vehicular parking by residents is acknowledged, however this is on an informal basis and no agreement has been made with the landowner to use it for this purpose. Furthermore, it is not considered that the number of vehicles that would be displaced onto Spencer Drive by the development would cause a significant highway safety issue and as such a reason for refusal on this basis could not be justified.

Having regard to all of the above it is considered that the proposed development accords with the provisions of Policies CS14 and SP26.

9. Conclusion

Having regard to the above it is considered that the proposed residential development represents an acceptable form of development within a residential area and that the proposed dwellings by virtue of their layout, scale and design along with the associated landscaping, would not be detrimental to the overall character of the area.

It is further considered that the new dwellings would not have any undue detrimental impact in terms of overdominating building form or loss of privacy due to overlooking, by either the current occupiers of adjacent properties or future occupiers of the proposed dwellings.

Furthermore it is considered that adequate provision has been made for parking for the proposed dwellings such that it is not considered that the development will result in any impact on highway safety.

Overall, it would represent an acceptable and appropriate form of development on this sustainable site that is allocated for residential purposes and would be in compliance with the requirements detailed within the Local Plan and the advice within the NPPF and NPPG. In respect of other material considerations raised it is recommended that planning permission be granted subject to the suggested conditions set out below.

Conditions

General

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 – Dwg No. 1 dated Feb 19
- House Type A – Dwg No. 2 dated Feb 19
- House Type A – Dwg No. 2 dated Feb 19 rec 16 Mar 19 (Plot 9)
- House Type B – Dwg No. 3 dated Feb 19
- House Type C – Dwg No. 4 dated Feb 19

- House Type D – Dwg No. 5 dated Feb 19
- Garages – Dwg No 6 dated Feb 19
- Site Sections – Dwg No. 8 dated Mar 19

Reason

To define the permission and for the avoidance of doubt

03

No above ground development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been 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 Policies CS21 and SP55.

04

No above ground development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the first dwelling is occupied.

Reason

In the interests of the visual amenity of the area and in accordance with local plan policies

Transportation

05

Before the development is commenced 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 completed.

Reason

No details having been submitted they are reserved for approval.

06

Before the development is brought into use, that part of the site to be used by vehicles shall be properly 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. All to the satisfaction of the Local Planning Authority and 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

07

Prior to occupation of the first dwelling, 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.

Landscape

08

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 guidance document 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 policies CS19 "Green Infrastructure", CS21 'Landscapes' and SP32 'Green Infrastructure and Landscape'

Contaminated Land

09

Prior to the commencement of development, a Phase I Site Assessment Report consisting of a desk top study, a site walkover, and a conceptual site model must be undertaken to obtain a thorough understanding of the sites history, its setting and its potential to be affected by contamination. The findings of the report must be submitted to the Local Planning Authority for review and consideration.

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.

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Prior to the commencement of development, a targeted Phase II Intrusive Site Investigation shall be undertaken and submitted to the Local Planning Authority to reflect any updated findings within the Phase I Report and to assess for potential contamination that may be present in and around the former fuel tank area. The investigation and a subsequent revised risk assessment must be undertaken by competent persons and a written report of the findings must be produced. If oil or fuel storage tanks are encountered and following their removal, then further testing of soils on each excavation base and sidewall should be undertaken to ensure contamination of soils/groundwater has not occurred. If tanks are encountered and excavated, then any remaining soils adjacent to this area should be tested for VOCs/SVOCs by a suitably qualified environmental engineer. The written report will then be subject to the approval in writing of the Local Planning Authority.

The above should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 -4).

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

11

Subject to the findings of item 2 above and prior to development commencing, a Remediation Method Statement shall be provided and approved by this Local Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Authority must be given two weeks written notification of commencement of the remediation scheme works.

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 the event that during development works unexpected significant contamination (including asbestos containing materials) 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 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

13

If subsoil's / topsoil's are required to be imported to site for remedial works, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination. The results of testing will need to be presented 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

14

Following completion of any remedial/ground preparation works a Validation Report should be forwarded to the Local Authority for review and comment. The validation report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all validation data has been approved by the Local Authority.

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

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.

Application Number	RB2019/0498
Proposal and Location	Demolition of conservatory and erection of single storey rear extension and single storey front to attach to existing garage at 6 Hall Croft Wickersley
Recommendation	Grant subject to conditions

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



Site Description & Location

The application site relates to No. 6 Hall Croft which is located within an established residential area at Wickersley.

No. 6 Hall Croft is a detached bungalow designed with two projecting gables at the front and constructed in stonework with a pitched tiled roof. There is a conservatory at the rear and a double detached garage at the front with hardstanding providing for off street parking.

A public footpath to the south east of the site provides access from Gill Close to Goose Lane.

Background

There has been one previous application which was withdrawn on 31/01/2019

RB2018/1926-Demolition of conservatory and erection of rear and front extension to attach to the existing garage with rooms in the roof including dormer windows.

Proposal

The proposal is to demolish the conservatory and erect a single storey rear extension a small rear link extension and a further single storey front extension to attach to the existing garage. The single storey rear extension extends 2m beyond the original rear wall with a pitched roof.

The front extension extends 6.71m beyond the original front wall and extends approximately 1.2m beyond the side wall to attach to the existing garage.

The submitted site plan has been revised to reflect the land registry plan.

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 the Sites and Policies Document which was adopted on 27th June 2018.

The site has a residential use allocation in the Local Plan.

For the purposes of determining this application the following Local Plan policies are considered to be of relevance:

CS28 Sustainable Design
SP55 Design Principles

Other Material Considerations

Interim Planning Guidance - 'Householder Design Guide' (IPG). This has been subject to public consultation and adopted by the Council on 3rd March 2014.

The revised National Planning Policy Framework (NPPF) came into effect in February 2019. It states that “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”

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.

The Local 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 letters to neighbouring properties. A total of 6 objections have been received and are summarised as follows:

- Disproportionate and inappropriate for the size of the plot
- Disrupt the character of the bungalow and look out of keeping
- Unsafe access and egress to the site
- Overlooking, loss of privacy and overbearing
- Windows facing No. 4 should be glazed with obscure glass
- Converted and extended properties in Wickersley don't offer a range prices or housing type to cater for the rising elderly population
- Restrictions on construction and parking of workers vehicles should the development be granted

The applicant has requested the right to speak.

Consultations

Streetpride (Transportation Infrastructure Service) – no objections.

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 considerations in the determination of the application are:

- Visual impact on the host dwelling and the locality
- Residential amenity
- Parking/highway safety

Visual impact on the host dwelling and the locality

The NPPF notes at paragraph 124 that: 'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.' Paragraph 130 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, taking into account any local design standards or style guides in plans or supplementary planning documents.' The NPPG also advises that permission should be refused for development of poor design.

In assessing the design of the proposed extension and the surrounding area, Policy CS28 Sustainable Design notes 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."

Policy SP 55 Design Principles states that all forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings.

In addition the IPG Householder Design Guide gives the following general advice regarding the design of domestic extensions. The size and design of extensions should be subsidiary to the existing dwelling to allow the original building to remain dominant. Where an extension is to be the same height and depth as the original house the existing roofline should be carried over the extension and the same roof style and materials should be used.

The dwelling to which this application relates is sited at the end of the cul-de sac where the surrounding properties vary in terms of design consisting of bungalows and two storey houses.

The design of the principle elevation of the bungalow incorporates two gable projections with the main entrance located between the two. The gable to the left is wider than the one to the right and includes a slightly higher ridge height.

When looking at the bungalow from Gill Close the proposed extension extends 6.71m beyond the gable projection on the right hand side to attach to the existing double garage with a pitched roof to tie into the existing roof. Additionally it will be constructed in materials to match the existing building.

It is considered that in comparison to the size of the dwelling the proposal is a modest addition and designed to maintain the original character without appearing unduly prominent and out of keeping in the street. As such, the proposal is considered to comply with the relevant paragraphs of the NPPF, the Council's Local Plan Policies and the IPG.

Impact on the surroundings

In regard to neighbouring amenity paragraph 127 of the NPPF notes that planning policies and decisions should ensure that developments (amongst others), create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

For the purposes of privacy the IPG recommends that a distance of 10m from habitable room windows to a neighbour's boundary should be maintained.

The front gardens of the properties on Gill Close are mainly open plan with boundary screening provided to enclose private rear gardens.

A distance in excess of 10m will be provided from the windows in the side elevation facing the boundary with No. 4 Hall Croft. Whilst it is noted there is no boundary screening between the properties, the front of this dwelling is generally overlooked from surrounding properties and pedestrians using the footpath link to Goose Lane. As such, it is considered that the proposal would not significantly increase the level of overlooking that currently exists.

The proposed window to the utility room directly adjacent to the boundary with the new dwelling to the east has been removed.

The existing conservatory extends approx. 3.1m beyond the original rear wall, however, it is to be removed and replaced with single storey extension projecting 2m beyond the rear wall. On this basis it is considered that there would be no impact on the amenities of the occupiers of neighbouring properties.

Highway Safety

The current parking standards for a dwelling with 3 or more bedrooms is 2 off street parking spaces. The double garage is to be retained along with the hardstanding providing off street parking.

Furthermore the Transportation & Traffic Unit have raised no objections to the granting of planning permission in a highway context.

Other matters

With regard to the comments received regarding elderly accommodation being provided in the locality, this is not a material planning consideration when dealing with applications to extend existing dwellings.

In addition, the issue relating to noise & general disturbance when development is under construction is unlikely to be significant for an extension to a single dwelling to justify restrictive conditions.

Conclusion

In conclusion and taking the above into account, it is considered that the proposed development is acceptable without appearing unduly prominent and out of keeping in the street or harmful to neighbouring amenity. As such it is recommended that it be granted subject the following 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 18-04c, 18-06d, 18-07e, 18-11d & 18-12a received
21/05/2019

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Reason

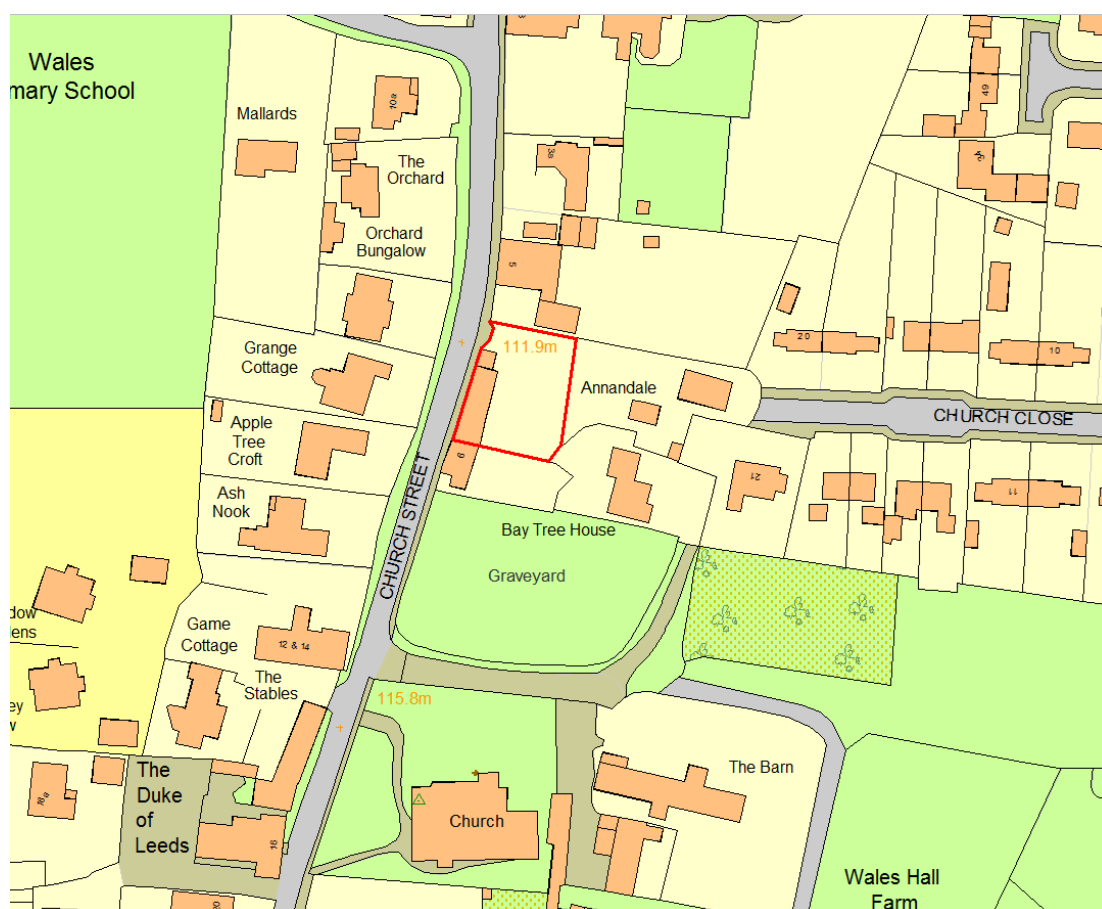
In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Core Strategy Policy CS28.

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.

Application Number	RB2019/0550
Proposal and Location	Part Change of Use to specialist clothes shop (Use Class A1), 7 Church Street, Wales
Recommendation	Grant subject to conditions

The application is being reported to Planning Board due to the number of objections received.



Site Description & Location

The application site is No.7 Church Street, Wales a historic stone built dwelling located within the centre of Wales Conservation Area, close to the Parish Church.

The dwelling is a three storey dwelling set immediately adjacent to the highway, with parking available to the side and a large rear garden.

Background

No site history.

Proposal

The applicant is seeking retrospective planning permission for a change of use of the loft area of the residential property to a specialist A1 clothing shop. The shop specialises in women's clothing and is intended to be open 22 hours a week maximum, between the following hours:

- Sunday: Closed
- Monday: Closed
- Tuesday: 12:00 - 16:00
- Wednesday: 10:00 - 16:00
- Thursday: 15:00 - 19:00
- Friday: 10:00 - 15:00
- Saturday: 09:00 - 12:00

The applicant has agreed during the application process to cease any evening events and has provided an off street parking plan for five cars, which they intend to implement. The parking is an existing gravel drive used by the host property, which the applicant intends to mark out to provide adequate on site parking.

The applicant's Planning Statement states that:

- The business started in 2017 and is operated on a part time basis by Mrs Shepherd (the applicant who lives at the property) and Mrs Wadsjkaer (who lives at another address nearby) with opening hours of no more than 22 hours per week. It is a small ladies boutique operating out of a loft bedroom at 7 Church Street Wales.
- The business itself has no employees and is run solely by the two owners of the business (Mrs Shepherd and Mrs Wadsjkaer) who only advertise on Facebook and rely on customers recommending them to friends.
- From the outset this modest business venture was always meant to provide ladies with a unique shopping experience compared with the High Street. Their key aims were to:-
 - Provide a very personal service that would appeal to all ladies irrespective of their age, shape or size.

- Provide a service in a more informal environment, putting customers at ease.
- Cater for those ladies who, for whatever reason, felt uncomfortable shopping for clothes in the High Street or felt that they did not belong in High Street clothes shops.
- Provide a personalised one to one service to customers and building an ongoing relationships with them.
- Keep the business small and niche thus creating more of a customer community (where all feel valued).
- Operate restricted but flexible hours, usually around 22 hours per week, in order to maintain a good home/work life balance.

The ladies source the stock themselves, making weekly trips to wholesalers, purchasing garments “there and then” and bringing them back to Church Street in their own car. Consequently, no delivery vehicles come to Church Street other than the occasional DHL delivery.

The applicant’s Sequential Test states that:

The sequential test undertaken by this practice did not reveal any properties that might meet the applicant’s requirements. The retrospective use of the site at Wales is ideal for the business model that Mrs Shepherd and her business partner have successfully developed and it is hoped that the council, as local planning authority, will support this small, niche business in the community.

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 the Sites and Policies Document (adopted June 2018).

This site falls within a Residential allocation and Wales Conservation Area as defined in the Rotherham Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy

CS 12 Managing Change in Rotherham's Retail and Service Centres

CS28 Sustainable Design

Sites and Policies policy

SP 11 Development in Residential Areas

SP 52 Pollution Control

SP 55 Design Principles

SP 41 Conservation Areas

Other Material Considerations

National Planning Policy Framework: The revised NPPF came into effect in February 2019. It states that “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”

The Local 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 a site notice and letters to immediate neighbouring properties. 47 letters of support have been received, along with 10 letters of objection and one letter of objection from Wales Parish Council.

The objections are summarised as follows:

- The shop has caused traffic problems on Church Street, blocking the footpath, customers turning in neighbours' drives.
- Conflicts with events at the Church.
- Overlooking of dwellings to the rear.
- Poor disabled access and fire safety.
- Disturbance from comings and goings, including evening events.
- Not in keeping with the character of the Conservation Area and the residential character of the area.

The Parish council states that:

- The applicant's business is situated in the oldest residential part of the parish in close proximity to the parish church and, in the Parish Council's view, inappropriate development in a conservation area. Moreover, there are a number of vacant shops in the village and the applicant taking one of these would help to create the vibrant and prosperous local economy that the council aspires to achieve and, at the same time, allow their business to grow.
- Church Street is a narrow road, not well suited to modern traffic and the Parish Council regularly receives complaints of traffic congestion, obstruction and concerns about the ability of the emergency services to access the properties on the road. The applicants do not appear to have adequate parking facilities for their customers, which exacerbates this situation. A regular stream of customers would also be of detriment to the character of the neighbourhood and a potential nuisance for the residents of adjoining and adjacent properties.

The letters in support state that:

- Good for the village providing a unique shop.
- Within easy walking distance.
- Great customer service not available elsewhere.

7 people have requested the right to speak at Board including 4 objectors, 2 supporters and the applicant.

Consultations

RMBC (Environmental Health) – Would envisage no significant loss of amenity by virtue of noise, air quality or land pollution impact and as such raises no further comment.

RMBC (Transportation and Highways Design) – No objections subject to relevant conditions.

Appraisal

In considering this application the main issues for determination are:

- Principle of development
- Impact on neighbouring amenity
- Highways issues
- Visual impact of the development, including impact on Conservation Area
- Other matters

Principle of Development

Policy CS12 Managing Change in Rotherham's Retail and Service Centres states that:

“To maintain and enhance the vitality and viability of the borough's retail and service centres new retail, leisure, service facilities and other main town centre uses will be directed to the most appropriate centre.....Proposals for town centre uses on the edge of or outside of designated centres will only be permitted where it can be demonstrated that:

- a. sites within and then on the edge of town, district or local centres have been assessed and it can be demonstrated that they are not available, suitable or viable for the proposed development, and then
- b. In the case of bulky goods floorspace, the availability, suitability and viability of vacant premises in retail parks to accommodate the proposed development has been assessed”.

SP 11 Development in Residential Areas states that:

“Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies.

Non-residential uses will be considered in light of the need to maintain the housing land supply and create sustainable communities, and normally only permitted where they:

- a. are ancillary and complementary to the residential nature and function of the area; and
- b. are no larger than is required to meet the needs of local residents; and
- c. will not have an unacceptable impact on the residential amenity of the area; and
- d. demonstrate how they will be of benefit to the health and well-being of the local population”

Firstly in terms of Policy CS12 the site is located outside of a main town centre and a sequential test assessment has been provided for the proposed change of use of 32.63 sqm floorspace to retail use. The arguments put forward to discount sites within traditional shop units are: privacy for customers, part time operation (no more than 22 hours per week), and the unaffordability of a retail unit. It is considered that, subject to the shop remaining the same size with limited opening hours, the use is acceptable in this out of town location.

Turning to Policy SP 11 Development in Residential Areas, the Council has received objections regarding the neighbouring amenity and the resulting parking within the narrow highway. These issues are addressed in detail below.

Impact on neighbouring amenity

With regard to neighbour amenity Local Plan Policy SP52 Pollution Control states that: “Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity. When determining planning applications, particular consideration will be given to: (amongst others) the presence of noise generating uses close to the site, and the potential noise likely to be generated by the proposed development.” The Policy further adds that: “Some uses are particularly sensitive to noise. For the purposes of this policy these include, but are not restricted to: housing and residential institutions, educational establishments, care establishments such as hospitals and nursing homes, public buildings such as libraries and museums, places of worship, places of audience based recreation, offices and research establishments.”

The NPPF notes at paragraph 127 that planning policies and decisions should ensure that developments (amongst others) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The NPPF at paragraph 180 adds that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The shop is located in the loftspace of the host property and accessed via the applicant's secondary front door. No external changes have been undertaken except for a small plaque indicating the businesses presence.

Firstly in terms of noise and disturbance, the shop is only intended to be open for 22 hours a week. The applicant has also agreed to a condition requiring all clients to arrive on an appointment only basis, to ensure that the number of clients at any one time is limited. As such any comings and goings are considered to be minor and will not cause significant disturbance to neighbours.

One neighbour has raised concerns relating to overlooking to the rear, though it is noted that the host property has a substantial rear garden some 17m long and as such any overlooking is not considered harmful to neighbouring amenity.

The proposed low key use is therefore considered acceptable in this setting subject to the recommended conditions.

Highways issues

Objections have been received due to the narrow nature of Church Street and the lack of off street parking provided by the applicants. Shoppers are also using neighbours' driveways to manoeuvre in when leaving.

To this regard the applicant has agreed to provide 5 parking bays marked out to the side of the property, on the existing gravel parking area to the domestic property. A condition has been recommended to ensure that the bays are provided during opening hours.

The NPPF at paragraph 109 states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." The proposed off street parking provision will alleviate the parking concerns raised by neighbours and minimise any potential for visitors to use neighbouring drives to turn in. RMBC (Transportation) have been consulted and have made no objections to the application.

Visual impact of the development, including impact on Conservation Area

Core Strategy Policy CS23 'Valuing the Historic Environment' and CS28 'Sustainable Design' indicate that Local Planning Authorities should ensure that new development make a positive contribution to the character and local distinctiveness of the historic environment.

The NPPF states at paragraph 131, that: "In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

The proposal involves no external changes to the building and the car park area is existing, and as such no additional hardstanding is required. Any signage that required consent would be considered on its own merits, Having regard to residential nature of this area, within the Conservation Area.

Other issues

An objector has raised concerns regarding the poor disabled access to the shop being located within the loft of the property and accessed via stairs. The shop has been inspected and approved by Building Control and justification submitted for the lack of disabled access. In addition the shop meets all the Building Control fire safety requirements.

Conclusion

Having regard to the above considerations, it is considered that the change of use to A1 shop is justified subject to the imposition of planning conditions to mitigate on street parking issues and subject to appropriate hours of operation. In view of the above it is recommended that planning permission be granted.

Conditions

01

The permission relates to an A1 clothes shop within the loftspace of No.7 Church Street only, and shall not be rented or sold as a separate A1 retail unit. The permission shall enure for the benefit of the applicant (Mrs Shepherd) and her business partner (Mrs Wadsjkaer) only.

Reason

The site is not suitable for a general A1 retail unit and due to the specific nature of the proposed development.

02

The use hereby permitted shall only be open to customers between the following hours:

- Sunday: Closed
- Monday: Closed
- Tuesday: 12:00 - 16:00
- Wednesday: 10:00 - 16:00
- Thursday: 15:00 - 19:00
- Friday: 10:00 - 15:00
- Saturday: 09:00 - 12:00

Reason

In the interests of the amenities of the occupiers of nearby dwellings

03

Within 1 month of the date of the permission the parking arrangement shown on the amended parking layout received 14 May 2019 shall be marked out and brought into use. The parking shall be available for customers during working hours.

Reason

In the interests of highway safety.

04

The business shall be operated on an appointment basis only and details of all appointments shall be diarised (date/time) and be made available for inspection.

Reason

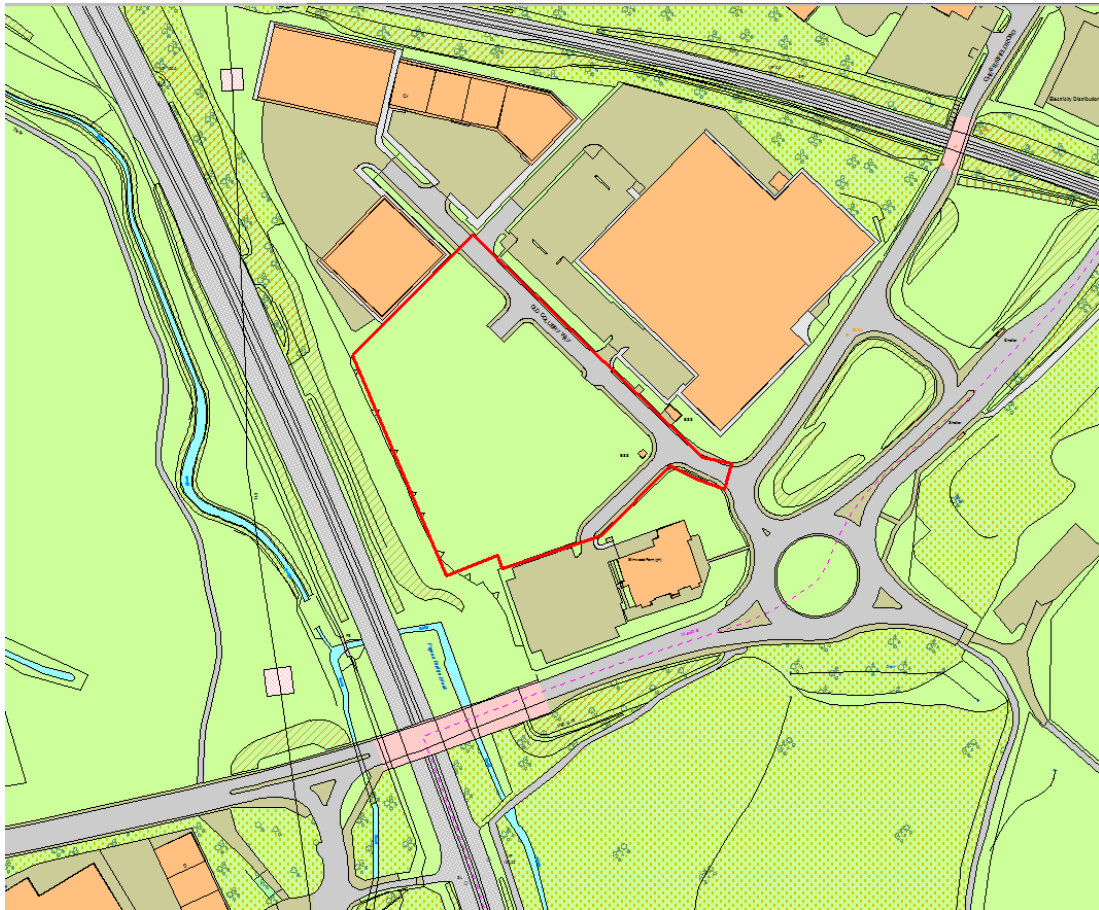
In the interests of the amenities of the occupiers of nearby dwellings

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.

Application Number	RB2019/0578
Proposal and Location	Erection of 2 No. industrial units (Use Classes B2/B8), associated car parking, service yard and 2.4m high boundary fence, land at Old Colliery Way, Swallownest
Recommendation	Grant conditionally

This application is being presented to Planning Board as it is a 'Major' development.



Site Description & Location

The overall site comprises approximately 1.5 hectares of vacant land accessed off Colliery Way, Swallownest. The land represents phase 3 of the industrial estate which replaced the former Beighton Colliery.

The site is bounded by industrial premises to the north and east, with railway lines to the west and a carvery restaurant to the south.

Background

Relevant Planning History

RB1993/0949 - Outline application to erect hotel, offices and buildings for business use (within Class B1) and storage distribution (within Class B8) and petrol filling station (renewal of R89/1788P) - GRANTED CONDITIONALLY

RB2001/1490 - Reclamation of derelict former colliery site involving recovery of deposited and in situ materials and minerals, construction fill import and compaction of all ground to designated levels to produce land suitable for development purposes. - GRANTED CONDITIONALLY

RB2004/1347 - Outline application for mixed use development comprising A3 (Food and Drink), C1 (Hotel), B1(Business) B2 (General Industrial)and B8 (Storage & Distribution) uses with associated contouring works including details of the means of access - GRANTED CONDITIONALLY

Proposal

The applicant seeks full planning permission for the erection of two units for use within B2 (General Industrial) and B8 (Storage and Distribution), with ancillary office use, associated car parking, service areas and landscaping. The floorspace of Unit 1 would be approximately 1,870 sqm with 19 car parking spaces whilst the floorspace of Unit 2 would be approximately 2,690 sqm with 28 car parking spaces.

The plans were amended during the course of the application to improve the cladding to the front elevation, with additional elements to add some visual interest and to reflect the adjoining buildings.

The proposed materials proposed include a mixture of grey and black metal cladding.

The application is supported by the following documents:

Design and Access Statement

Objectives

- Third phase of the overall master plan, accessed from the tree-lined access road.
- Designed to replicate the previous phases, therefore providing architectural quality from principle views.
- Landscaped car park areas.
- Honest and functional service yard.
- Provide an office frontage to the overall development.
- Retain and enhance wildlife habitat areas and existing vegetation to development perimeter.

Development Principles

- The main entrance elevations prominently front the access road and the entrance to the overall site.
- Parking spaces, including disabled spaces are provided closest to the main entrance.
- The landscaping and topography to be used to minimise the impact of the development.
- Soft landscaping will be simple and low level.
- Cycle stands will be provided.

Flood Risk Assessment

1. The site is not at risk of flooding from any source.
2. Surface water discharge will be attenuated to 31 litres/second, subject to agreement with Yorkshire Water and the LLFA.
3. Attenuation storage for events up to the 1 in 100 year plus 30% for climate change rainfall will be provided in proprietary below ground voided storage within the site.
4. The level of risk and safeguards available are considered appropriate to this class of development.

Phase 1 Site Investigation Report

A further phase of intrusive Site Investigation works should be undertaken, to determine whether further contamination of site soils has occurred since 2008, to investigate the material within site stockpiles, and to undertake in situ geotechnical testing to confirm the strength of the engineered made ground. The geotechnical testing should target the known location of the proposed new building.

Site investigation works should include window sampler boreholes with standard penetration tests and dynamic probing follow-on. A mechanical excavator should be used to investigate stockpiles and excavate a series of trial pits across the site.

Chemical laboratory testing should include analysis for a range of commonly occurring contaminants, including heavy metals, polycyclic aromatic hydrocarbons (PAHs), asbestos, and petroleum hydrocarbons (TPH).

Plate load testing should be undertaken to provide data on the Made Ground to assist in design of foundations, access roads, car parking and vehicle circulation areas, and to confirm the design CBR value. Skip tests should also be considered to give data for foundation design and information on ground settlement.

Geotechnical and Geo-environmental site investigation

A previous Phase 1 report has been compiled by others, as well as a Phase 2 investigation. This indicated the site to have been formerly occupied by Beighton Colliery. This was demolished in recent years, and the land remediated to allow commercial development.

The site is underlain by made ground, comprising engineered fill to reported depths in the region of 7 to 9 m from surface. The made ground was placed in order to create development plateaus, after removal of all relic structures and gross contamination across the colliery site. Sandstone and mudstone of the Pennine Middle Coal Measures is present below the made ground.

Precautions against shallow coal mining are not required.

Our investigations indicate that relatively uniformly compacted made ground is present across the site, extending to at least 5 m below ground level, and likely to between 7 and 9 m below ground level as stated by the previous investigation by others.

We consider that concrete pad foundations will be suitable below the building columns, sized on an allowable bearing capacity of 50 kN/m² and constructed at a minimum depth of 1 m below ground level. If localised softer/looser material is present, the excavation should be extended until more compact ground is present.

Transport Assessment

- In accordance with planning policy guidance which promotes sustainable development, the site has been demonstrated to be accessible on foot, by bicycle and by public transport.
- To further encourage employees to use sustainable travel modes a Framework Travel Plan has been prepared.
- Vehicle access to the Unit E, as well as the service yard of Unit F, is proposed from a new priority controlled junction with Old Colliery Way. This junction will provide visibility splays in accordance with Manual for Streets guidelines and can safely accommodate required large vehicle movements.
- Vehicle access to the Unit F car park is proposed from an existing junction which serves the neighbouring Elmwood Farm restaurant.
- A traffic impact assessment of the development proposals has been undertaken. This concluded that the proposed development is forecast to generate 26 two-way vehicle trips during the AM peak hour and 23 two-way vehicle trips during the PM peak hour.

- Following a consideration of the assignment of these trips across the local highway network it was concluded that such an increase in traffic flow would have an imperceptible impact on the operation of the surrounding junctions, including the key A57/ Chesterfield Road roundabout which currently operates within capacity.
- A review of personal injury accident data has revealed that there are no accident blackspots in the vicinity of the site. The traffic impact assessment has concluded that traffic generated by the proposed development will not materially alter this situation.
- A review of car parking has demonstrated that this is proposed in accordance with the Council's maximum parking standards and is of sufficient quantum to accommodate forecast demand.

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 the Sites and Policies Document (adopted on 27th June 2018) which replaces the Unitary Development Plan (UDP) that has now been superseded.

The application site is allocated for Industrial and Business Use within the Local Plan (Site Allocation E30). For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):

CS14 Accessible Places and Managing Demand for Travel
CS19 Green Infrastructure
CS21 Landscape
CS24 Conserving and Enhancing the Water Environment
CS25 Dealing with Flood Risk
CS27 Community Health and Safety
CS28 Sustainable Design
CS30 Low Carbon & Renewable Energy Generation
CS33 Presumption in Favour of Sustainable Development

The Sites and Policies Document – June 2018:

SP16 Land Identified for Industrial and Business Uses
SP26 Sustainable Transport for Development
SP32 Green Infrastructure and Landscape
SP33 Conserving and Enhancing the Natural Environment
SP35 Protected and Priority Species
SP36 Soil Resources
SP47 Understanding and Managing Flood Risk and Drainage
SP52 Pollution Control
SP54 Contaminated and Unstable Land
SP55 Design Principles
SP56 Car Parking Layout
SP57 Sustainable Construction

Other Material Considerations

Council's Car Parking Standards

National Planning Practice Guidance (NPPG).

National Planning Policy Framework: The NPPF was amended in February 2019. It sets out the Government's planning policies for England and how these should be applied. It sits within the plan-led system, stating at paragraph 2 that: "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise" and that it is "a material consideration in planning decisions".

The Local 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 in the press as a major development, on site by 2 site notices, and by individual neighbour letters. No representations have been received.

Consultations

RMBC – Transportation Infrastructure Service: Accepts the findings of the Transportation Assessment and the proposed Travel Plan. Recommends appropriate conditions with any permission.

RMBC - Landscape Design: No objections

RMBC – Drainage: No objections subject to appropriate condition

RMBC – Environmental Health (Land Contamination): No objections subject to standard conditions.

RMBC – Environmental Health (Noise): There is potential for neighbouring businesses or residential accommodation above the nearby public house to be affected by noise and vibration depending on the type of industrial machinery installed and on the acoustic insulation provided to the buildings. However, it is considered that any issues can be addressed by way of planning conditions.

Environment Agency: No objections subject to an informative.

Sheffield Area Geology Trust: No objections

South Yorkshire Mining Advisory Service: Satisfied that the site has been adequately assessed in terms of mining stability and suitable mitigation is proposed. Therefore no objections are raised.

Coal Authority: No objection to the proposed development.

South Yorkshire Archaeology Service: Notes that the site is a former open cast mine, as such no objections.

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
- Design, layout and scale
- Transportation issues
- Drainage and flood risk issues
- Ecology and biodiversity
- Landscape and tree matters
- General amenity issues – contaminated land and noise

The principle of the development

The proposed site is identified as E30 though there are no site specific development guidelines for this site.

Policy SP16 'Land Identified for Industrial and Business Use' states: "Within areas allocated for industrial and business use on the Policies Map, development proposals falling within Use Classes B1b and B1c, B2 and B8 will be permitted. Offices falling within Use Class B1a will only be acceptable where they are ancillary to the main proposed use or the proposals satisfy the requirements of Core Strategy Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' and other relevant planning policy. Other uses will be considered on their merits in line with Policy SP17 'Other Uses within Business, and Industrial and Business Areas.'"

The application proposal is for B2 (General Industrial) and B8 (Storage and Distribution), with ancillary office use on this site which is allocated for Industrial and Business use within the Local Plan. In accordance with policy SP16, all such uses are permitted. Whilst the proposal is speculative in nature it is considered that the proposal is acceptable in principle and will contribute towards employment growth targets in the locality. In this respect the proposal is considered to comply with the above relevant Local Plan policies.

Design, layout and scale

Policy CS28 'Sustainable Design' states, in part, 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."

SP55 'Design Principles' states that: "All forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings. Proportionate to the scale, nature, location and sensitivity of development."

CS30 'Low Carbon & Renewable Energy Generation' states that:

"1 Energy:

Developments should seek to reduce carbon dioxide emissions through the inclusion of mitigation measures in accordance with the following energy hierarchy:

- a. Minimising energy requirements through sustainable design and construction;
- b. Maximising Energy Efficiency;
- c. Incorporating low carbon and renewable energy sources.

Developments will be supported which encourage the use of renewable, low carbon and decentralised energy. All development should achieve, as a minimum, the appropriate carbon compliance targets as defined in the Building Regulations."

SP 57 'Sustainable Construction' states that: "To enable high quality, functional and sustainable design to be clearly embedded in future development, proposals will need to be designed to withstand and adapt to the predicted impacts of climate change. The evidence supporting the planning application should be proportionate to the scale of the development and:

- a. identify how recycled materials will be used during construction unless it can be demonstrated that it would not be technically feasible

- or financially viable or the nature of the development requires appropriate use of local materials;
- b. meet the relevant BREEAM 'very good' standards or better for non-residential buildings over 1,000 square metres unless it can be demonstrated that it would not be technically feasible or financially viable;
- c. demonstrate how the installation of integrated renewable and low carbon energy technologies in new and existing non-residential developments, in order to off-set CO2 emissions and mitigate the impacts of climate change, has been assessed and included within the development unless it can be demonstrated that it would not be technically feasible or financially viable. These could include (but are not limited to):
 - i. solar thermal
 - ii. solar photovoltaic
 - iii. biomass boilers
 - iv. ground source heat pump
 - v. wind turbines
 - vi. combined heat and power schemes & associated infrastructure

This policy should be read in conjunction with Policy WCS 7 'Managing waste in all developments' of the Barnsley, Doncaster and Rotherham Joint Waste Plan (March 2012) regarding the management of waste products arising from the development and future occupation and Policy SP 36 'Soil Resources'."

The application proposes 2 industrial buildings set off the main central spine road. Their layout is appropriate and in keeping with a modern industrial estate setting.

The buildings are utilitarian in design and during the course of the application process the cladding to the front elevation has been improved, with additional elements to add some visual interest and to reflect the adjoining buildings.

The agent has submitted a pre assessment BREEAM report, a condition has also been attached requiring the building to achieve BREEAM Very Good, or to submit technical/financial viability information to demonstrate why it cannot.

Overall it is considered that the proposed development is of a good quality and is of an appropriate scale and design which will comply with the relevant Local Plan policies above.

Transport issues

In assessing highway related matters, Policy CS14 'Accessible Places and Managing Demand for Travel,' notes in part, "that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by (amongst other):

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- g. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed.”

Policy SP26 ‘Sustainable Transport for development’ states, in part, that “Development proposals will be supported where it can be demonstrated that:

- a. as a priority, the proposals make adequate arrangements for sustainable transport infrastructure; promoting sustainable and inclusive access to the proposed development by public transport, walking and cycling, including the provision of secure cycle parking, and other non-car transport and promoting the use of green infrastructure networks where appropriate;
- b. local traffic circulation, existing parking and servicing arrangements are not adversely affected;
- c. the highway network is, or can be made, suitable to cope with the traffic generated in terms of the number, type and size of vehicles involved, during construction and after occupation;
- d. schemes take into account good practice guidance published by the Council including transport assessment, travel plans and compliance with local Residential and Commercial Parking Standards to ensure there is a balance struck between access for motor vehicles and the promotion of sustainable access.”

SP 56 ‘Car Parking Layout’ states that: “In terms of car parking, layouts must be designed to:

- a. reduce the visual impacts of parking on the street-scene and provide defined visitor parking on-street;
- b. discourage the obstruction of footways by kerb parking, and parking that compromises the operation of the highway; and
- c. ensure in-curtilage / on plot parking does not result in streets dominated by parking platforms to the front of the property or large expanses of garage doors fronting the street.”

The NPPF further notes at paragraph 108: “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

Paragraph 109 states: “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Paragraph 111 goes on to note that: “All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.”

The application proposes 19 and 28 car parking spaces for the two units respectively which are considered to be acceptable for the development proposed in this location. There is a pedestrian access from the estate road to allow for safe pedestrian access. Cycle provision would be provided as part of the proposed travel plan for each unit.

It is therefore considered that the proposal is acceptable from a highway safety aspect and is in accordance with the above relevant Local Plan policies.

Drainage and flood risk issues

Policy CS24' Conserving and Enhancing the Water Environment' states:

“Proposals will be supported which:

- a. do not result in the deterioration of water courses and which conserve and enhance:
 - i. the natural geomorphology of watercourses,
 - ii. water quality; and
 - iii. the ecological value of the water environment, including watercourse corridors;
- b. contribute towards achieving 'good status' under the Water Framework Directive in the borough's surface and groundwater bodies
- c. manage water demand and improve water efficiency through appropriate water conservation techniques including rainwater harvesting and grey-water recycling;
- d. improve water quality through the incorporation of appropriately constructed and maintained Sustainable Urban Drainage Systems or sustainable drainage techniques as set out in Policy CS25 Dealing with Flood Risk,
- e. dispose of surface water appropriately according to the following networks in order of preference:
 - i. to an infiltration based system wherever possible (such as soakaways)
 - ii. discharge into a watercourse with the prior approval of the landowner and navigation authority (to comply with part a. this must be following treatment where necessary or where no treatment is required to prevent pollution of the receiving watercourse.)
 - iii. discharge to a public sewer.”

Policy CS25 “Dealing with Flood Risk” states, in part, that: “Proposals will be supported which ensure that new development is not subject to unacceptable levels of flood risk, does not result in increased flood risk elsewhere and, where possible, achieves reductions in flood risk overall.”

Policy SP47” Understanding and Managing Flood Risk and Drainage” states, part, that:

“The Council will expect proposals to:

- a. demonstrate an understanding of the flood route of surface water flows through the proposed development in an extreme event where the design flows for the drainage systems may be exceeded, and incorporate appropriate mitigation measures;
- b. control surface water run-off as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). The Council will expect applicants to consider the use of natural flood storage / prevention solutions (such as tree planting) inappropriate locations, and the use of other flood mitigation measures such as raised finished floor levels and compensatory storage; and
- c. consider the possibility of providing flood resilience works and products for properties to minimise the risk of internal flooding to properties.”

Paragraph 163 of the NPPF notes in part that: “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.”

The application was supported by a Flood Risk Assessment and drainage details. These details were considered to be acceptable, and to be in compliance with the above relevant policies.

Landscape and trees matters

CS19 ‘Green Infrastructure’ states that “Rotherham’s network of Green Infrastructure assets, including the Strategic Green Infrastructure Corridors will be conserved, extended, enhanced, managed and maintained throughout the borough. Green Infrastructure will permeate from the core of the built environment out into the rural areas.

A net gain in Green Infrastructure will be realised through the protection and enhancement of existing assets and the creation of new multifunctional areas, assets and linkages to include promoting: recreation and tourism, public access (including walking and cycling), green education, biodiversity (incorporating the promotion of ecological networks and habitat connectivity), public health and wellbeing, water management, the protection and enhancement of the local and national landscape character area and historic assets, the mitigation of climate change, green economic uses and sustainable land management.

Action will be targeted to the safeguarding and enhancement of functions and assets of the Strategic Green Infrastructure Corridors and any future refinement work and the delivery of objectives and actions identified in local and sub-regional Green Infrastructure Strategies. This will include long term management and maintenance of these assets.

Developer contributions will be used to facilitate improvements through quality, robustness, establishment, enhancement, and the ongoing management of Rotherham's Green Infrastructure, investing in enhancement and restoration where opportunities exist and the creation of new resources where necessary.

Proposals will be supported which make an overall contribution to the Green Infrastructure network based upon the principles set out below:

- a. Securing provision, either on or off site, of an appropriate size, shape, scale and type and having regard to the nature of the development, its impact on the wider network and contribution to the overall quality of the area.
- b. Avoiding damage to or loss of Green Infrastructure assets. Where loss is unavoidable and the benefits of the development outweigh the loss, appropriate mitigation and compensation measures, should be included as part of development proposals.
- c. Investment in Green infrastructure will be prioritised to increase functionality of individual assets and safeguard existing functions, such as habitats for wildlife.
- d. Improving connectivity between new developments and the Strategic Green Infrastructure network and providing buffering to protect sensitive sites.
- e. Supporting ecosystem services, including the use and management of Green Infrastructure areas to reduce the impacts of climate change, using vegetation to cool the environment, provision of new open space to remedy the need for natural and semi natural flood storage and managing surface water to ensure landscape change impacted by climate change has long term benefits.
- f. Promoting design which replicates or incorporates natural processes for river morphology and water storage along the regionally important rivers Don, Rother and Dearne.
- g. Promoting innovative development which manages quantifiable risks such as flooding.
- h. Assisting with the integration of new development into the natural and historic environment."

Policy CS21 'Landscapes,' states, in part, that: "New development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes by ensuring that landscape works are appropriate to the scale of the development, and that developers will be required to put in place effective landscape management mechanisms including long term landscape maintenance for the lifetime of the development."

Policy SP32 'Green Infrastructure and Landscape' goes on to state in part that: "The Council will require proposals for all new development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets and networks including landscape, proportionate to the scale and impact of the development and to meeting needs of future occupants and users."

The application site is located within the Rother Green Infrastructure Corridor and the application has been supported by landscape details. The overall planting scheme is considered to be appropriate and will contribute positively to the development and the surrounding area.

It is therefore considered that the proposed landscaping is acceptable, and is in compliance with the above relevant Local Plan policies.

General amenity issues – contaminated land and noise

Policy CS27 'Community Health and Safety' states, in part, that: "Development will be supported which protects, promotes or contributes to securing a healthy and safe environment and minimises health inequalities.

Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable development. When the opportunity arises remedial measures will be taken to address existing problems of land contamination, land stability or air quality."

Policy SP52 'Pollution Control' states that: "Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity. When determining planning applications, particular consideration will be given to:

- a. the detrimental impact on the amenity of the local area, including an assessment of the risks to public health.
- b. the presence of noise generating uses close to the site, and the potential noise likely to be generated by the proposed development. A Noise Assessment will be required to enable clear decision-making on any planning application.
- c. the impact on national air quality objectives and an assessment of the impacts on local air quality; including locally determined Air Quality Management Areas and meeting the aims and objectives of the Air Quality Action Plan.
- d. any adverse effects on the quantity, quality and ecology features of water bodies and groundwater resources.
- e. The impact of artificial lighting. Artificial lighting has the potential to cause unacceptable light pollution in the form of sky-glow, glare or intrusion onto other property and land. Development proposals should ensure that adequate and reasonable controls to protect dwellings and other sensitive property, the rural night-sky, observatories, road-users,

and designated sites for conservation of biodiversity or protected species are included within the proposals.”

Policy SP54 ‘Contaminated and Unstable Land’ states that: “Where land is known to be or suspected of being contaminated, or development may result in the release of contaminants from adjoining land, or there are adverse ground conditions caused by unstable land, development proposals should:

- a. demonstrate there is no significant harm, or risk of significant harm, to human health or the environment or of pollution of any watercourse or ground water;
- b. ensure necessary remedial action is undertaken to safeguard users or occupiers of the site or neighbouring land and protect the environment and any buildings or services from contamination during development and in the future;
- c. demonstrate that adverse ground conditions have been properly identified and safely treated;
- d. clearly demonstrate to the satisfaction of the Local Planning Authority, that the land is suitable for its current or proposed use.”

In relation to noise impacts, the application is set within an industrial site next to a railway line. There is potential for neighbouring businesses or residential accommodation above the nearby public house to be affected by noise and vibration depending on the type of industrial machinery installed and on the acoustic insulation provided to the buildings. However, it is considered that any issues can be addressed by way of planning conditions.

In respect of land contamination the applicants have submitted a Phase 2 Geo-Environmental Investigation and Assessment Report which has been assessed by the Environmental Health Section. There are no objections subject to appropriate conditions.

Conclusion

The site is allocated for Industrial and Business Use within the Local Plan and it forms the Employment Site E30 and as such, the proposal is acceptable in principle.

The scheme is acceptable in terms of the design and layout, highway safety, drainage, and landscaping as well as other general amenity issues identified above. The scheme is considered to be sustainable and has notable benefits in terms of generating employment within the Borough.

Overall the scheme is considered to be in accordance with the adopted Development Plan and with the policies in the NPPF.

Conditions

Article 35 of the Development Management Procedure Order 2015 requires that, where planning permission is granted subject to conditions, the decision notice must state clearly and precisely the full reasons: (i) for each planning condition; and (ii) in the case of each pre-commencement condition, for the condition being a pre-commencement condition. The reasons for each condition are provided below. Condition numbers 13 and 14 of this permission are pre-commencement condition (since they require matters to be approved before development works begin). These are justified as being pre-commencement condition because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.
- ii. The details required under conditioned numbered 13 and 14 are fundamental to the acceptability of the development and the nature of the further information required to satisfy this condition is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.

General

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 and to assist in the delivery of development.

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)

(Unit E Ground Floor A-PL-04-001 Rev A) (Received 28/03/19)
(Unit F Ground Floor A-PL-04-101 Rev A) (Received 28/03/19)
(Unit F Roof Plan A-PL-04-102 Rev A) (Received 28/03/19)

(Amended Site Plan A-PL-09-002 Rev C) (Received 24/05/19)
(Amended Unit E Roof Plan A-PL-04-002 Rev C) (Received 24/05/19)
(Amended Unit F Elevations A-PL-05-101 Rev B) (Received 24/05/19)
(Amended Unit E Elevations A-PL-05-001 Rev B) (Received 24/05/19)

Reason

To define the permission and for the avoidance of doubt.

03

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 drawings. The development shall thereafter be carried out in accordance with these details.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Local Plan Policy

04

The boundary treatment shall be provided on site in accordance with the approved fence details (A-90-102 P01) and the Landscape Plan (BLK 01 Rev C)

Reason

In the interests of the visual amenity of the area.

Transportation/Sustainability

05

Before the development is brought into use, that part of the site to be used by vehicles shall be properly 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 in accordance with the Local Plan and the South Yorkshire Interim Local Guidance for Sustainable Drainage Systems.

06

Before the development is brought into use the car parking areas shown on the submitted plan shall be provided, marked out and thereafter maintained for car parking.

Reason

To ensure the provision of satisfactory parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

07

Details of secure cycle parking at each unit shall be submitted to and approved by the Local Planning Authority and the approved details shall be provided before the development is brought into use.

Reason

To promote sustainability in accordance with the Local Plan and the NPPF.

08

The existing vehicular access at unit E shall be permanently closed and the kerbline/footway reinstated before the development is brought into use.

Reason

In the interest of highway safety

09

The measures included in the framework travel plan shall be implemented throughout the lifetime of the development.

Reason

To promote sustainability in accordance with the Local Plan and the NPPF.

10

Road sections, constructional and drainage details (re. replacement turning head) 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.

Reason

In the interest of highway safety

General Amenity

11

No noise generating plant including mechanical ventilation or refrigeration/air conditioning, extraction plant shall be installed in any part of the development until full and precise details have been submitted to and approved in writing by the Local Planning Authority. The details shall include a BS4142:2014 noise assessment and 1/3 octave frequency analysis with appropriate corrections for acoustic features and shall detail any mitigation measures, physical or operational, to achieve no more than 3dB(A) above the prevailing background levels, outside the windows of the nearest noise sensitive property during the quietest measured period.

The assessment shall include a report on the potential for vibration from industrial machinery to affect neighbouring businesses or residential properties. The report shall address any remedial works that need to be carried in order to avoid any adverse impact on nearby noise sensitive receptors.

Reason

In the interest of neighbouring amenity.

12

Details of external lighting shall be submitted to and agreed in writing by the Local Planning Authority prior to its installation and the approved details shall be implemented.

Reason:

In the interests of general amenity and highway safety having regard to adjoining land uses.

13

Prior to development commencing an Intrusive Site Investigation will be undertaken to confirm the ground/groundwater contamination status and ground gassing regime across the site and to determine fully the geotechnical constraints that may be present at the site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

The above should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 -4).

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

Subject to Condition 13 above and prior to development commencing, a Remediation Method Statement shall be provided and approved by this Local Planning Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in accordance with the findings identified within the Phase II Intrusive Investigation Report and under a full quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of the remediation works.

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.

15

Subject to Condition 13, in the event that gas protection measures are required for any new builds then a detailed specification of the gas protection measures to be installed will be forwarded to this Local Planning Authority for review and comment.

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.

16

If subsoils/topsoils are required to be imported to site for remedial works/areas of soft landscaping, 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.

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.

17

In the event that during development works unexpected significant contamination (including asbestos containing materials) 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.

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.

18

Suitable water supply pipes will need to be specified and approved in writing by this Local Planning Authority to ensure resistance from chemical attack from residual contaminants remaining in the ground.

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.

19

Prior to the use of concrete on site a design sulphate classification and corresponding aggressive chemical environment for all sub surface concrete should be submitted to and agreed in writing by the Local Planning Authority.

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.

20

Following completion of any remedial/ground preparation works a Validation Report will be forwarded to the Local Planning Authority for review and comment. The validation report shall include details of the remediation works/mitigation measures and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all validation data has been approved by the Local Planning Authority.

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.

Landscaping and Trees

21

Landscaping of the site as shown on the approved plan (BLK 01, Rev C) shall be carried out during the first available planting season after commencement of the development. 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 within the next planting season. 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 the Local Plan.

Drainage

22

Details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work, shall be submitted to and approved by the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.

Reason

To ensure that the development can be properly drained in accordance with the Local plan and the NPPF.

23

Surface water from areas likely to receive petrol/oil contamination (e.g. vehicle parking areas) shall be passed through effective oil/grit interceptors prior to discharge to any sewer or watercourse.

Reason

To prevent pollution of any watercourse in accordance with the Local Plan and the NPPF.

Sustainability

24

The building hereby approved shall be designed and constructed to achieve BREEAM Very Good rating as a minimum unless it can be demonstrated that it would not be technically feasible or financially viable.

Reason

To achieve a sustainable form of development in accordance with the Local Plan.

Informatives:

01 General Amenity

You should note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust which may arise during the construction phase. 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 the Magistrates' Court. It is therefore recommended that you give serious consideration to reducing general disturbance by restricting the hours that operations and deliveries take place, minimising dust and preventing mud, dust and other materials being deposited on the highway.

02 Ecology

If a protected species is found during site clearance or construction, work must temporarily cease and an experienced ecologist be contacted for advice.

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. In addition the application was amended during the course of the application process as a result of discussions between the applicant and Local Planning Authority. The Local Planning Authority considers that it has worked with the applicant in a positive and proactive manner based on seeking solutions in accordance with the principles of the National Planning Policy Framework.

To the Chairman and Members of the
PLANNING REGULATORY BOARD

Date 6 JUNE 2019

Report of the Director of Planning and Regeneration Service

<u>ITEM NO.</u>	<u>SUBJECT</u>
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- | | |
|---|--|
| 1 | Proposed Tree Preservation Order No 1, 2019 – Land Adjacent to 43
Clement Street, Kimberworth, Rotherham, S61 2JT |
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ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE
6 JUNE 2019

Item 1

Proposed Tree Preservation Order No 1, 2019 – Land Adjacent to 43 Clement Street, Kimberworth, Rotherham, S61 2JT

RECOMMENDATION:

That Members confirm the serving of Tree Preservation Order No. 1 2019 without modification with regard to the Woodland which is the subject of this report, situated on land adjacent to 43 Clement Street, Kimberworth, Rotherham under Section 198 and 201 of the Town and Country Planning Act 1990.



Background

A planning application (ref: RB2018/1636) was received by the Council on 11 October 2018 seeking outline permission for the erection of 8 dwellinghouses with all matters reserved.

The site consists of 45 elements of woody vegetation, comprising of 40 individual trees and 5 groups of trees or shrubs / hedge groups.

The supplied tree report with the application details 10 category B trees that should be retained, where possible, as part of the finished scheme. The indicative site layout plan submitted shows that all but 7 trees would be retained – a loss of at least 43 trees.

The Council's Tree Service Manager has stated that the woodland provides a good level of amenity to the local area and whilst it is in need of some management its structure is good. In addition, the trees should be judged as a collective rather than just individually and the loss of the woodland therefore will be a great loss to the area.

It is noted that the indicative layout has tried to retain the best structured trees, but the removal of the woodland will remove more than just trees, it will remove habitat and niches that do not exist in individual trees. Accordingly, the Tree Services Manager has recommended that the whole site be covered by a Woodland TPO and the grounds for making the Order are as follows:

Amenity

- The trees concerned provide a valuable and important amenity to the area.
- The trees are mature in age and outwardly appear in reasonable to good condition with reasonable to good future prospects.
- The trees are considered to be a suitable species in relation to their setting and contribute to the leafy character of Kimberworth.
- The trees are likely to provide associated wildlife and environmental benefits.

Expediency

- The Council received a development application, which describes that all trees on site will be removed to facilitate the building of homes, with a less than adequate landscaping scheme proposed to mitigate the loss. It is therefore expedient that these trees are protected.

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”.

Objections

Objections were subsequently received from the applicant.

Objections raised are on the following grounds –

- The grounds for the TPO are based on judgement rather than evidence
- Wildlife and environment
- Low level of visual amenity
- No public access
- Not in a conservation area
- Evidence of fly-tipping
- Lack of expediency
- The TPO will stop development of the site.

Comments from Tree Service Manager

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

The grounds for the TPO are based on judgement rather than evidence

The creation of the TPO was made after a site visit by a professionally trained arboriculturist and following a review of the objectors supplied tree report. The Objector's objection is based around the terminology used in the reason for making the TPO, namely: “outwardly appear”, “considered to be”, “are likely to”.

Such wording is used as the tree elements being discussed either cannot be confirmed with 100% certainty or are based on expert judgement and experience. The full sentences they relate to are either dealing with:

- The full tree's health and not just what is visible during a Visual Tree Assessment (VTA) as used in the applicant's tree report.

It is not possible without extensive invasive investigation to give a full health assessment of the trees as much of their structure is either below ground or covered by ivy.

Such a level of investigation is not needed to justify a TPO.

- The species mix of the woodland being appropriate for the long-term health and structure of the woodland. Whilst some species are less than ideal they could be managed out without negatively affecting the structure of the woodland.
- The future health and appearance of the woodland, which of course cannot be assessed with 100% certainty.

Wildlife and environment

The supplied ecology report confirms that there are no protected species identified in the woodland, however it also confirms that it is likely used on a transitory basis by a range of birds and animals.

Low level of visual amenity

Government guidance for the visibility of protected trees is:

“Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.”

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

Therefore there is no definite requirement for the trees to be fully visible; however the woodland is clearly visible from Clement Street.

The woodland was assessed using the nationally recognised TEMPO assessment form which assessed the woodland as “Medium or large trees with limited visibility”. This along with all the other factors in the TEMPO assessment gave a score of 14, with 12 being the minimum recommended score for protecting with a TPO.

No public access

There is no requirement in the TPO legislation for protected trees to be publicly accessible. Such a requirement would make the majority of trees immune from protection

Not in a conservation area

There is no requirement in the TPO legislation that restricts the making of TPOs to trees located in conservation areas. Many excellent trees and woodlands, worthy of protection, exist outside of conservation areas.

Evidence of fly tipping

The presence of fly tipping on site is a management and neighbour issue for the land owner and not a reason to not protect the trees in the woodland.

Lack of expediency

A development application (RB2018/1636) was received appearing to detail the intent to remove the whole woodland (possibly retaining 4 trees, though the plans did not confirm this) in order to build 8 new houses at the end of Clement Street.

At this time none of the trees on site were covered by either a TPO or are within a Conservation Area and as such were not protected. The owner could carry out whatever works they chose, including the removal of the whole woodland.

The Tree Service in discussion with the Planning Service agreed that it would be appropriate to place the trees under the protection of a Tree Preservation Order to ensure they would not be removed before the determination of the planning application for residential development.

As the planning application shows that there is the intention to remove the woodland to facilitate the development the TPO is considered to be expedient. Without it, the trees, the habitat and their associated benefits could be removed without consultation with the Council.

The following guidance details what expedient may mean in the making of TPOs:

“What does ‘expedient’ mean in practice?”

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

*It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. **In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order.** Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.”*

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

The TPO will stop the development of the site

The TPO legislation is not intended to be used as a block against appropriate development, indeed where planning permission has been granted and the implementation of that permission requires tree works to take place (including tree removals), then the planning permission over-rides the TPO. This is confirmed in Government Guidance:

“Is there an exception for tree work relating to planning permission and permitted development?”

The authority’s consent is not required for carrying out work on trees subject to an Order so far as such work is necessary to implement a full planning permission. For example, the Order is overridden if a tree has to be removed to make way for a new building for which full planning permission has been granted. Conditions or information attached to the permission may clarify what work is exempt.

However, the authority’s consent is required for work on trees subject to an Order if:

- *development under a planning permission has not been commenced within the relevant time limit (ie the permission has ‘expired’);*
- *only outline planning permission has been granted; and*
- *it is not necessary to carry out works on protected trees in order to implement a full planning permission.*

The authority’s consent is also required, for example, for work on trees protected by an Order that is necessary to implement permitted development rights under the Town and Country Planning (General Permitted Development) Order 2015.”

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

The initial intention of this TPO is to protect the trees whilst the planning application is being assessed so that they are not removed prematurely and also to highlight the importance of the woodland as an important asset to the area and its many residents.

If a development proposal for the site can show that it will replace the lost trees and habitat and also be in line with the Government’s proposals for sustainable development as described in the National Planning Policy Framework and the 25 Year Environment Plan (both of which describes the need to provide net gains in biodiversity), then a planning consent for development could be supported.

The current proposal however will see the removal of approximately 33 trees with only 4 trees proposed as replacement. In addition to this the remaining and new trees on site will no longer be located in woodland and the better growing environment and the myriad of habitats that come with the woodland but in a more ecologically sterile environment of front and rear gardens.

Conclusion

The trees on site are good quality trees that provide an excellent level of amenity to the local area. They are likely to be capable of providing at least this level of amenity for the next 4 decades, though likely more as they grow. The current development proposal will see the decimation of the woodland that will not be replaced with the current poor replacement tree planting proposal, which will result in just a quarter of

the current tree numbers remaining on site along with a massive reduction in habitat for wildlife.

It is therefore 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.