

PLANNING REGULATORY BOARD

**Date:- Thursday, 18 July 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 meetings held on 6th and 27th June, 2019 (herewith) (Pages 2 - 6)
6. Deferments/Site Visits (information attached) (Pages 7 - 8)
7. Visit of Inspection - Erection of building for use as tea rooms (Use Class A3) including formation of gardens and car parking at land at Wellgate, Rotherham Town Centre (RB2019/0773) (report herewith) (Pages 9 - 27)
8. Development Proposals (report herewith) (Pages 28 - 64)
9. Updates
10. Date of next meeting - Thursday, 8th August, 2019 at 9.00 a.m.

Membership of the Planning Board 2019/20

Chairman – Councillor Sheppard

Vice-Chairman – Councillor Williams

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

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.)

PLANNING BOARD
Thursday, 6th June, 2019

Present:- Councillor Sheppard (in the Chair); Councillors Bird, D. Cutts, M. Elliott, Sansome, Steele, John Turner, Walsh, Whysall and Williams.

Apologies for absence:- Apologies were received from Councillors Atkin and Tweed.

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114. DECLARATIONS OF INTEREST

There were no Declarations of Interest to report.

115. DEFERMENTS/SITE VISITS

There were no site visits nor deferments recommended.

116. DEVELOPMENT PROPOSALS

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

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

- Erection of 9 No. dwellinghouse with associated garages at land to rear 76 Moor Lane South Ravenfield for Mr Whitelock (RB2019/0365)

Mr. G. Whitelock (Applicant)

- Demolition of conservatory and erection of single storey front and rear extensions to attach to existing garage at 6 Hall Croft Wickersley for Mr S Mitchell (RB2019/0498)

Ms. J. Dungworth (Applicant)

(2) That applications RB2019/0365 and RB2019/0498 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

(3) That, with regard to application RB2019/0550 this be deferred to the next meeting.

(4) That application RB2019/0578 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report and subject to an amendment to a plan in Condition 2 to now read:-

(Amended Unit E Roof Plan A-PL-04-002 Rev B) (Received 24/05/19)

117. PROPOSED TREE PRESERVATION ORDER NO 1, 2019 - LAND ADJACENT TO 43 CLEMENT STREET, KIMBERWORTH, ROTHERHAM

Consideration was given to a report of the Assistant Director of Planning, Regeneration and Transport concerning the proposed confirmation and serving of Tree Preservation Order No. 1 without modification with regard to a woodland on land adjacent to 43 Clement Street, Kimberworth, Rotherham under Section 198 and 201 of the Town and Country Planning Act 1990.

The site of forty individual trees and five groups of trees or shrubs/hedge groups was subject to a planning application seeking outline permission for the erection of eight dwellinghouses with all matters reserved. This application detailed ten category B trees being retained, where possible, as part of the finished scheme. The indicative site layout plan submitted showed that all but seven trees would be retained – a loss of at least forty-three trees.

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

It was noted that the indicative layout had tried to retain the best structured trees, but the removal of the woodland would remove more than just trees, it would remove habitat and niches that did not exist in individual trees. Accordingly, the Tree Services Manager had recommended that the whole site be covered by a Woodland TPO.

The proposed TPO was based on the trees on site being of good quality that provided an excellent level of amenity to the local area. They were likely to be capable of providing at least this level of amenity for the next four decades, though likely more as they grow. The current development proposal would see the decimation of the woodland that would not be replaced with the current poor replacement tree planting proposal. This could result in just a quarter of the current tree numbers remaining on site along with a massive reduction in habitat for wildlife.

It was, therefore, considered that the objections to the Order have been carefully considered and that the Order had been made in accordance with Government guidelines and, therefore, recommended to be

confirmed without modification.

In accordance with the right to speak procedure, Mr. R. Rogers (Objector) attended the meeting and spoke about this proposed Order.

Resolved:- (1) That the report be received and its contents noted.

(2) That the serving of Tree Preservation Order No. 1 2019 be confirmed without modification with regard to the Woodland situated on land adjacent to 43 Clement Street, Kimberworth, Rotherham under Section 198 and 201 of the Town and Country Planning Act 1990.

118. UPDATES

The following update was provided:-

(a) Completed Developments Tour

The date of the Completed Developments Tour was now set for Tuesday, 25th June, 2019 and confirmation of attendance was now required to Democratic Services.

Further suggestions of sites to visit were sought before a final itinerary was to be circulated.

119. DATE OF NEXT MEETING

Resolved:- That the next meeting of the Planning Board take place on Thursday, 27th June, 2019 at 9.00 a.m.

PLANNING BOARD
Thursday, 27th June, 2019

Present:- Councillor Sheppard (in the Chair); Councillors Bird, D. Cutts, Jarvis, Sansome, Steele, John Turner, Tweed, Walsh and Whysall.

Apologies for absence:- Apologies were received from Councillors M. Elliott and Williams.

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7. DECLARATIONS OF INTEREST

There were no Declarations of Interest to report.

8. MINUTES OF THE PREVIOUS MEETING HELD ON 16TH MAY, 2019

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday, 16th May, 2019, be approved as a correct record of the meeting.

9. DEFERMENTS/SITE VISITS

There were no site visits nor deferments recommended.

10. DEVELOPMENT PROPOSALS

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

(2) That applications RB2019/0562, RB2019.0574, RB2019/0603 and RB2019/0625 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

(3) That, with regard to application RB2019/0243:-

(a) subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990 with the developer for the purposes of securing:-

- 25% Affordable Housing Provision.
- Financial contribution of £500 per residential unit towards the provision of sustainable transport measures.
- Annual payment to The Manvers Lake Trust of £4,023 towards the ongoing management and maintenance of Manvers Lake based on

- a formula of £0.27 per sq. metre (1.49 hectares).
- Establishment of a management company to manage and maintain the on-site landscape and open spaces.

(b) subject to the satisfactory securing of such an agreement, the Council resolves to grant planning permission for the proposed development subject to the reasons for grant and conditions listed in the submitted report.

11. UPDATES

The following update information was provided:-

(a) Public Enquiry – Woodsetts

The Public Enquiry had now finished and both the Council and the appellants were in the process of providing final submissions. The decision was expected towards the end of July, 2019.

(b) Completed Developments Tour

The Completed Developments Tour did not take place on the 25th June, 2019, due to insufficient numbers of attendees. Arrangements would be considered for a tour to be arranged towards the end of the year.

Resolved:- That the information be noted.

12. DATE OF NEXT MEETING

Resolved:- That the next meeting of the Planning Board take place on Thursday, 18th July, 2019 at 9.00 a.m.

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.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL**PLANNING REGULATORY BOARD****VISIT OF INSPECTION – THURSDAY, 18TH JULY, 2019**

1. **RB2019/0773 - Erection of building for use as tea rooms (Use Class A3) including formation of gardens and car parking at land at Wellgate Rotherham Town Centre for Mr Ahmed.**

Requested by:- Councillor R. McNeely, Ward Representative

Reason:- To allow Members to consider the sloping nature of the site and to gain a better understanding of the impact on adjoining properties.

| <u>No.</u> | <u>Application</u> | <u>Area</u> | <u>Arrival</u> | <u>Departure</u> |
|------------|--------------------|-------------|----------------|------------------|
| 1. | RB2019/0773 | Wellgate | 9.00 a.m. | 9.30 a.m. |

Return to the Town Hall for meeting - 9.45 a.m.

SITE VISIT NO. 1 (Approximate time on site – 9.00 a.m.)

| | |
|------------------------------|--|
| Application Number | RB2019/0773 |
| Proposal and Location | Erection of building for use as tea rooms (use class A3) including formation of gardens and car parking at land at Wellgate, Rotherham Town Centre |
| Recommendation | Grant subject to conditions |

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

**Site Description & Location**

The site is located on the northern side of Wellgate and is located directly opposite the junction of Wellgate with Bernard Street and Wellgate House.

The site is presently used for the sale of second-hand vehicles while previously a building (now demolished) was located towards the rear of the site and used for tyre sales and fitting depot. A former petrol filling station existed on land on the Wellgate frontage which is now used as a car wash, but falls outside of the application site.

The site slopes upwards from Wellgate towards the rear of the site adjacent Clifton Mount, by approximately 5 metres in total. There is a high retaining wall along the northern boundary of the site.

To the immediate east of the site is a narrow street (Pinfold Lane) which is used to access commercial premises, there is also a mixture of commercial and residential properties beyond. To the west of the site is the hand car wash on Wellgate, residential properties on Clifton

Terrace, and a mixture of residential and commercial buildings beyond. To the south on the opposite side of Wellgate is Wellgate House and a mixture of commercial and residential properties. To the north of the site is Clifton Mount and Albany Street which are residential streets.

There is an area to the north-west of the application site which is accessed off Clifton Terrace, and whilst in the applicant's ownership it does not form part of the application site.

Background

There have been numerous applications submitted in relation to this site, the most recent of which is:

RB2010/0464 – Outline application for residential development (renewal of previously approved under RB2007/0124) – Granted conditionally – 14 June 2010

Proposal

The proposed development involves the erection of a new building for use as tea rooms (use class A3) including the formation of gardens and car parking.

The proposed building has been designed to take advantage of the difference in levels by locating it to the rear of the site approximately 45 metres from Wellgate.

The building would be of a flat roof form and has been designed using a split level arrangement with the front of the building being two storey high (approximately 6.2 metres) with the rear being single storey (approximately 2.7 metres). The building would be 25 metres wide and 12 metres deep.

The front elevation facing Wellgate will be glazed with the main entrance to the building via a stepped / ramped access from the car park through the proposed gardens. A secondary access will be provided at the side of the building with direct access to the first floor, to enable the upper floor to be used separately to the ground floor if necessary.

The building would be constructed in metal cladding of various shades of grey (Goosewing grey and Anthracite grey), with burnt orange perforated metal cladding panels.

Vehicular access to the site would be derived from the existing entrance on Wellgate, with the parking laid out to the south of the site immediately behind the southern boundary fronting Wellgate with space for 18 vehicles. To the north of the car parking area and in front of the proposed building, a landscaped terraced garden is proposed. In addition to the terraced garden additional tree planting is proposed along the Wellgate frontage, to the rear of properties on Clifton Terrace, and elsewhere within the site.

Along the western boundary of the application site along the rear boundary of properties on Clifton Terrace up to the north-west corner of the site adjacent Clifton Mount a 1.8m high screen fence is proposed to be erected and no access will be derived from Clifton Terrace to the site. The remainder of the boundaries will be unchanged.

Existing levels on site would be altered to provide the level areas for the proposed building and garden area, though there are no proposals to raise land levels anywhere to achieve this, and as such material would have to be removed from the site.

Deliveries will take place by 'transit van' size vehicles parking in the car park when the premises are closed. The applicant has confirmed that the area to the west of the building will not be used

for deliveries as there is insufficient space for vehicles to turn and manoeuvre adjacent the building due to the proposed boundary fence.

The proposal would look to employ 5 full time and 5 part time employees.

The use is proposed to be open between the hours of 12:00 and 23:00, 7 days a week, with the garden area used up until 20:00 each day.

A Design and Access Statement has been submitted in support of the application which provides details on the site and proposed development.

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

Local Plan policy(s):

CS12 'Managing change in Rotherham's retail and service centres'

CS14 'Accessible places and managing demand for travel'

CS21 'Landscape'

CS26 'Minerals'

CS27 'Community Health and Safety'

CS28 'Sustainable Design'

SP11 'Development in Residential Areas'

SP23 'Out-of-Centre Retail Parks and Other Out-of-Centre Developments'

SP26 'Sustainable Transport for development'

SP52 'Pollution Control'

SP55 'Design Principles'

SP56 'Car Parking Layout'

WCS7 'Managing Waste in All Developments'

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 revised NPPF came into effect 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.

Town Centre Sequential and Impact Tests Good Practice Guidance

Publicity

The application has been advertised by way of site notice along with individual neighbour notification letters to adjacent properties. 8 letters of representation have been received. The issues raised are summarised below:

- There would be significant noise and disturbance from the venue and cars.
- Whilst the proposals should be an improvement to the area there are concerns about the land to the north west off Clifton Terrace, whilst not included in the application there are concerns about what is going to happen.
- Trees were removed from the land to the north west, will it remain as scrubland.
- Concerns over the standard of workmanship of the new building.
- We will view the rear of the building and the ugly fence.
- Not appropriate for a built up area of residential homes.
- Will be used as a wedding venue.
- Concerns over car parking on neighbouring streets.
- Concerns over proposed opening hours.
- The site will become a magnet for young motorists to congregate.
- There should be no access via Clifton Terrace, Clifton Mount or Albany Street.

Three Right to Speak Requests have been received from objectors.

Consultations

RMBC – Transportation and Infrastructure Service: Have no objections subject to conditions.

RMBC – Drainage: Have no objections subject to conditions.

RMBC – Environmental Health: Have no objections subject to conditions.

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
- Design
- Amenity
- Highway

Principle

The site is allocated for Residential use in the Local Plan, and development of an A3 café alongside gardens and parking is proposed.

A3 uses are classed as main town centre uses, and as the site is approximately 780 metres from Rotherham town centre it is considered to be an out of centre location. Chapter 7 of the NPPF and adopted Policy CS12 'Managing change in Rotherham's retail and service centres' requires evidence to be submitted to satisfy the sequential test elements.

Policy CS12 states: *"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."*

Although a formal sequential test has not been submitted with the application, relevant information has been submitted and discussions have taken place with the applicant and the following summarises the position in this respect.

The proposal includes built development of an A3 use of some 450sqm along with gardens and parking area which together require a site area of approximately 0.2ha. The business model includes the gardens to complement and be used by customers of the A3 use and as such in undertaking the sequential approach it is not appropriate to disaggregate these uses out.

It is reasonable to limit the sequential assessment to Rotherham town centre in view of the likely catchment and market to be served. The Council's latest monitoring data shows that there are two sites available which could accommodate the A3 proposal (5 High Street - 454.1sqm and 17 Howard Street – 456sqm); however these sites would not be of sufficient size to also accommodate the proposed gardens. These sites are therefore appropriately discounted.

There are also three retail allocations within Rotherham town centre which may also be suitable for the proposed development: R1 Outdoor Markets Complex, Rotherham town centre – site in Council ownership and not available; R2 Drummond Street Car Park, Rotherham town centre – site in Council ownership, not available and much larger than the proposed development area; R3 Corporation Street, Rotherham Town Centre – site too small to accommodate the proposed development.

In view of the above it is considered that sequentially preferable sites are not available to accommodate the proposed development and as such the sequential requirements of Policy CS12 and NPPF have been satisfied.

Further to the above policy SP23 'Out-of-Centre Retail Parks and Other Out-of-Centre Developments' states: *"Planning permission for the expansion of existing out-of-centre facilities or new out-of-centre retail development will not be supported unless the proposal satisfies the requirements of Core Strategy Policy CS 12 'Managing Change in Rotherham's Retail and Service Centres'.*

The Council will seek to ensure that development of main town centre uses (as defined in national planning policy) in out-of-centre locations remains complementary to defined centres by mitigating the impact of any development. This will be achieved by imposing appropriate conditions including on the use of land and premises, the scale of development, the sub-division of units, and the goods that can be sold from any retail outlet."

In light of the above the proposal satisfies policy CS12 as there are no sequentially preferable sites either within the town centre or in an edge-of-centre location that could accommodate the proposal. However in order to ensure it does not impact on the vitality and viability of the town centre, and as set out in policy SP23, conditions will be imposed restricting the use of the land to A3, ensuring that it cannot be sub-divided. This is due to the fact that an A3 use can be converted to either an A1 (retail) or A2 (financial and professional service) under permitted development as set out in The Town and Country Planning (General Permitted Development) Order, and such uses are likely to impact on the town centre's vitality and viability, as would the sub-division of the building.

In addition, a further key consideration is whether the proposal satisfies policy SP11 'Development in Residential Areas'. Policy SP11 states: *"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."*

Whilst the use would be ancillary and complementary to the residential allocation, consideration shall be given to whether it is no larger than required to meet the needs of residents, whether there would be any unacceptable impact on residential amenity, and whether the applicant has demonstrated that it would be of benefit to the health and well-being of the local population.

It is considered that in general terms the proposed development, in particular the gardens, would make a contribution to improving the environmental quality of this area, to the benefit of the local community, and be positive in terms of health and well-being by introducing a new green space into this location. The issue of amenity impact will be assessed later in the report.

It is noted that the site is located within a shallow coal and clay mineral safeguarding area, but outside of a Coal Mining Referral Area. However, policy CS26 'Minerals' will be applicable in the determination of the application. Policy CS26 states: *"Provision will be made for mineral extraction during the Plan period in an orderly and sustainable manner in line with the principles set out below..."* It further states: *"Proposals for non-mineral development within the Mineral Safeguarding Areas (except for householder development and conversions/ changes of use which do not involve any new building or excavation works) will be supported where it can be demonstrated that:*

- a. the proposal incorporates the prior extraction of any minerals of economic value in an environmentally acceptable way; or;*
- b. mineral resources are either not present or are of no economic value; or*
- c. it is not possible to extract the minerals in an environmentally acceptable way or this would have unacceptable impacts on neighbouring uses or the amenity of local communities; or*
- d. the extraction of minerals is not feasible; or*
- e. the need for the development outweighs the need to safeguard the minerals for the future; or;*
- f. the development is minor or temporary in nature; or*
- g. Development would not prevent the future extraction of minerals beneath or adjacent to the site."*

In respect of the above given the residential / commercial nature of the area and the proximity of these types of premises to the site it is considered that it would not be possible to extract any minerals (should there be any under the site) in an environmentally acceptable way as there would be significant impact on the neighbouring uses and the amenity of local communities. Therefore, the proposal complies with criteria c) above and policy CS26 is satisfied.

In respect WCS7 'Managing Waste In All Developments' the applicant has indicated that waste will be collected in refuse bins and will be collected either by the Council or a private contractor.

Design

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 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..."*

Development proposals will be expected to secure sustainable design and construction, ensuring the flexibility and adaptability of new development and increasing the energy and water efficiency of buildings...

Design should take all opportunities to improve the character and quality of an area and the way it functions."

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...Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals:*

- a. the setting of the site, including the size, scale, mass, volume, height, orientation, form, and grain of surrounding development;*
- b. that an assessment of local building materials, their colour and architectural detailing has been undertaken and submitted with the application;*
- c. the use of appropriate materials and landscaping and utilisation of natural features, such as topography, watercourses, trees, boundary treatments, planting and biodiversity to create visually attractive high quality development;*
- d. proposals reinforce and complement local distinctiveness and create a positive sense of place; public art should be incorporated into proposals where appropriate;*
- e. the legibility and permeability of development to promote ease of movement, the creation of safe, secure and accessible environments and provide clear distinction between public and private spaces - lighting of the public realm and the built development will be particularly important;*
- f. the provision of satisfactory arrangements for the storage and collection of refuse, recyclable materials and garden waste to enable easy and convenient recycling and composting;*
- g. the design and layout of buildings to enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from overshadowing;*
- h. the need to optimise the potential of sites to accommodate development which could, in appropriate instances, involve maximising densities;*

- i. new public and commercial developments are encouraged to include baby changing facilities, breast feeding facilities and accessible 'Changing Places' toilet facilities in addition to standard accessible toilets.*

All development proposals must have regard to the presence of sensitive land uses and be designed in such a way that the amenity of any land use and the specific characteristics of the sensitive area are not adversely affected...

The NPPF at paragraph 124 states: *"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: *"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 site layout has been sympathetically designed taking account of the site constraints, mainly the 5 metre difference in land levels from front to back. The level differences have dictated that the parking is provided to the front of the site, with the building located to rear. Whilst parking to the front will have a hard visual appearance due to the surfacing materials and expanse of hardstanding, the applicant will introduce tree planting along the front and landscaped areas within the parking area to soften its impact. In addition, the site currently has large expanse of hard surfacing at the front of the site, which extends backwards into the main part of the site.

The proposed building has been designed to reflect and work with the difference in levels of the site, which differ considerably from the front to back, by adopting a split level arrangement with the front being two storeys in height and the rear single storey. The building is contemporary in design terms with a flat roof and constructed in metal cladding of various shades of grey with prominent burnt orange elements, with extensive glazing to the front facing Wellgate.

The terraced planting will provide significant opportunities to create both an attractive setting for the building as well making a significant contribution to the visual appearance of the Wellgate streetscene.

Furthermore, the proposed boundary treatment along the western boundary of a 1.8m high fence would be acceptable in terms of its position on the site and ensuring there would be no access to the site from Clifton Terrace, which has been raised as a main concern by residents. Whilst the position is acceptable, only the height has been disclosed on the western boundary, no information has been submitted regarding its design (apart from it being screen fence), accordingly, a condition shall be imposed requiring the submission of full details of the position, design, height and materials of all boundary treatments prior to the building being brought into use.

It is therefore considered that the proposed site layout and building represents an appropriate form of development that will positively contribute to the local character and will significantly enhance the appearance of this rundown site and the quality of the wider surrounding area. Accordingly, the scheme will enhance the character and quality of the area and the way it functions and as such the proposal would be in compliance with the requirements outlined within Local Plan policies CS21, CS28 and SP55, along with the provisions of the NPPF.

Amenity

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 minimise health inequalities."* It further states: *"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."*

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."*

Paragraph 127(f) of the NPPF states planning decisions should ensure that development creates places with a high standard of amenity for existing and future users.

Paragraph 180 of the NPPF states decisions should 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 other things, 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.

With regard to impact on neighbouring occupants, consideration is given to the physical impact of the proposed building and the final use of the development.

In respect of the impact of the building itself on the occupants of neighbouring residents, particularly those on Clifton Terrace and Clifton Mount, it is considered that the building would not detrimentally impact on neighbouring residents by virtue of its siting, design features, height, mass, form and scale, together with the orientation of the site, land levels, existing and proposed boundary treatments and distance to neighbouring properties. This is due to the fact that the building would not impact on the outlook from neighbouring properties by being overly dominant or visually oppressive, would not give rise to any overlooking or privacy issues and would not result in the overshadowing of habitable room windows or private rear amenity areas.

In respect of the impact of the use of the site on local residents, the main considerations are noise from the proposed use, opening hours; general disturbance and potential odour from cooking fumes.

The use of the building hereby proposed is to predominantly be a café, but there are other ancillary uses that would not require a planning application that they could use the premises for such as private functions (i.e. weddings, birthday parties etc.). However, the hours of use proposed in the planning application are 12:00 to 23:00 hours, seven days a week and any function that would be deemed to be ancillary would have to comply with these hours, which are to be conditioned as part of any approval.

Further to the above, the sale of alcohol, amplified music and if they wish to use it as a wedding reception would require a licence from the Council's Licencing Board where impact on neighbouring residents will be considered, but the opening hours would have to comply with the hours imposed by the planning application, otherwise a new planning application would be required.

It is noted that there are concerns from residents regarding potential noise issues from both within the building when in use, particularly at night and also in the garden area. With regard to internal noise from the proposed use, the café use is unlikely to create a great deal of noise emanating from the building itself that would affect local residents, even at night. This is due to the low intense nature of the café use and any music in the premises is likely to be low volume / background music. Further to this, even higher volume music or noise from any of the ancillary uses (i.e. wedding receptions, birthday parties) would unlikely penetrate out of the building to neighbouring premises, given the distance to neighbouring properties and the building can be constructed to mitigate noise escaping. In addition, Environmental Health has indicated that any general noise from the venue can be dealt with using statutory nuisance legislation if necessary.

In respect of external noise impacting on local residents from people leaving the premises it is considered that given the character of the area, the fact that there is no access to Clifton Terrace, Clifton Mount, Albany Street from the site, all customers will leave the premises via Wellgate and will walk through the gardens to the car parking areas, which given the proposed and existing boundary treatments, opening hours, nature of the use and distance to properties is considered sufficient to ensure impact on these local residents is at an acceptable level.. The location of the parking areas, the exit, together with the location of the building, boundary treatment and distance will help reduce any noise from people leaving the premises or noise from car doors closing and general conversations. It is also recommended that a condition restricts the use of the external garden area to 8pm in the evening which the applicant has suggested.

It is therefore considered that given the nature of the proposed use and the character of the area the proposed opening hours are considered acceptable in this instance and Environmental Health have raised no noise concerns.

In respect of odour it is considered appropriate to impose a condition requiring information to be submitted and approved before any extraction / infiltration system are installed within the building and for the installed system to be appropriately monitored. Should any odour complaints be received in the future, Environmental Health will investigate under the Environmental Protection legislation.

Further to the above, it is noted that effects of works during the construction phase are inevitable with building works. 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 the Council will add the standard informative to any approval regarding the construction works and any breach would be covered by the Environmental Protection Act.

In addition, no information has been submitted in respect of lighting of the car park, given poor lighting can impact on residents a condition shall be imposed to ensure that before any lighting within the site is installed the details of its siting, height and angle of luminance are submitted and approved. This will limit any light pollution in the future.

Accordingly, from the information outlined above it is considered that subject to conditions, the proposal would comply with paragraph Local Plan policies CS27 'Community Health and Safety' and SP52 'Pollution Control' and paragraph 127(f) of the NPPF.

It is noted that in the supporting documents submitted with the application there is reference to potential for fireworks to be set out during certain celebrations, whilst there is potential to cause disamenity there is legislation outside of planning which dictates the times fireworks can be set off.

Highways

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."*

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.”*

SP56 ‘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 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.”*

The Council’s Transportation Service has noted that the site is to be accessed by vehicles from Wellgate, where the existing access is suitable in terms of width and visibility, and the parking numbers are considered appropriate for its location close to the town centre and on a bus route. This being the case and bearing in mind that the site is located in close proximity to the Town Centre with good access to public transport there are no objections to the development from a highways perspective subject to conditions securing the parking layout on the submitted plans and hardstanding to be permeable.

Concerns have been raised by local residents in respect of the parcel of land to the north-west of the site accessed off Clifton Terrace and shown to be in the ownership of the applicant. The main issues raised are that Clifton Terrace is not wide enough to accommodate additional traffic flow and there are concerns that the land might become an additional car park and / or secondary vehicular access to the development site. These issues have been noted but the land concerned is outside of the application site and should the applicant wish to use it as a car park a planning application would be required and assesses at that time, but as part of this application it is not being considered.

It is noted that no vehicles, including delivery vehicles will have access up the driveway within the site to the west of the building. The applicant has confirmed that there is insufficient space to turn a vehicle around. The applicant has also agreed to a condition that a scheme for bollards to prevent vehicles going up the west of the property adjacent properties on Clifton Terrace shall be implemented prior to the development being brought into use.

Other concerns have been raised about parking on neighbouring streets though it is considered that sufficient parking provision has been made on the site itself. If cars park illegally on nearby streets then it would be for the Police and the Council’s Parking Enforcement officers to take action.

Other considerations

Issues raised by the objectors in respect of the principle, noise and disturbance; highway impact; visual impact; proposed hours, and the parcel of land outside of the application site off Clifton Terrace have been considered and addressed in the report above.

Further to the above, in respect of the issue raised with regard to the loss of trees on the parcel of land off Clifton Terrace are noted but the trees were not protected and as such their removal required no consent from the Council. As noted above, this land is not in any event within the current application site.

In addition, the concern raised about the workmanship of any future building is noted but the development would require Building Regulations approval which will ensure the development meets the relevant building standards.

The issue raised in respect of the building becoming a wedding venue is noted, and the applicant has confirmed that they may wish to do wedding receptions at certain times in the future, but the main use would be as a café. The use of the building for wedding receptions would not require planning permission provided the use is on an ancillary basis to the main use. Furthermore, a licence will be required from the Licencing Service of the Council who will assess the contents of any Licencing application, but the hours of the licence would have to comply with the hours specified in any planning condition.

Finally, the concern raised that the site will become a magnet for young motorists to congregate is noted but is speculation and as such cannot influence the planning decision. Should the site in the future be subject to anti-social behaviour it would be for the applicant to secure the site appropriately and for the police to enforce any such disturbances.

Therefore, the above concerns are noted though the issues raised are not considered significant enough to warrant a refusal and do not outweigh the fact that the application complies with relevant national and local planning policies and guidance as set out in the report.

Conclusion

Having regard to the above, the application is considered to be acceptable in principle and represents an acceptable form of development which is of an appropriate design that would not adversely affect the character or appearance of the locality. Furthermore, the proposal would not adversely affect the amenity of existing and proposed residents, and would not result in highway safety issues. Therefore, the application would comply with relevant national and local planning policies and is subsequently recommended for approval subject to conditions.

Conditions

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start. Conditions numbered 15 of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified 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 condition number 15 are fundamental to the acceptability of the development and the nature of the further information required to satisfy these conditions 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.

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)

Location Plan at scale 1:1250, received 16 May 2019

105/19/1A, received 16 May 2019

105/19/2B, received 21 June 2019

Reason

To define the permission and for the avoidance of doubt.

03

No development shall take place above ground level 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.

04

The proposed development shall not be brought into use 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 building is brought into use.

Reason

In the interests of the visual amenity of the area.

Highways

05

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

06

Before the development is brought into use the car parking area shown on the approved plan (ref: 105/19/2B) shall be provided, marked out and thereafter maintained for car parking.

Reason

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

07

There shall be no vehicular or pedestrian access to the site from Clifton Terrace, Clifton Mount or Albany Street.

Reason

In the interests of highway safety and amenity of neighbouring residents.

08

The proposed development shall not be brought into use 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 bollards to be installed on site to prevent vehicles driving up the western part of the site adjacent the rear of properties on Clifton Terrace. The bollards shall be installed before the building is brought into use and thereafter retained.

Reason

In the interests of highway safety and amenity of neighbouring residents.

Drainage

09

Above ground development or drainage works shall not begin until details of the proposed means of disposal of foul and surface water, including details of any off-site work and on site attenuation of surface water flows, have been 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.

Amenity

10

The use of the building hereby permitted shall only be open to customers between the hours of 12:00 and 23:00; and the outside garden area shall not be used after 20:00 hours.

Reason

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

11

No deliveries shall be taken at or despatched from the site outside the hours of 08:00 and 20:00 hours.

Reason

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

12

All cooking fumes shall be exhausted from the building via a suitable extraction and/or filtration system. This shall include discharges at a point not less than one metre above the highest point of the ridge of the building or any such position as may be agreed in writing by the Local

Planning Authority prior to installation. The extraction/filtration system shall be maintained and operated in accordance with the manufacturer's specifications, details of which shall be submitted to and approved by the Local Planning Authority prior to installation and it shall thereafter be operated effectively during cooking. All systems shall take into account the document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' published by DEFRA January 2005.

Reason

So as to ensure correct dispersion of cooking odours to avoid disamenity to the locality.

13

Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall show how the lighting meets the guidance provided by The Institute of Lighting engineers in their document 'Guidance Notes for the Reduction of Light Pollution'. The approved lighting details shall be implemented throughout the lifetime of the development.

Reason

To protect the amenity of the local residents from any unwanted light.

Landscape

14

Before the development is brought into use, a Landscape scheme, showing location and types of landscape treatment, shall be submitted for approval by the Local Planning Authority. The Landscape scheme should be prepared in accordance with RMBC Landscape Design Guide (April 2014 or as subsequently amended) 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

Land Contamination

15

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 an understanding of the sites history, its setting and its potential to be affected by contamination. This report must be submitted to this Local Planning Authority for review and consideration. If further intrusive investigations are recommended then these works must be undertaken in accordance with the conclusions and recommendations detailed in the Desk Study Report and the findings must be submitted to 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 (SR 2-4).

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.

16

Subject to the findings of condition 15 above a Phase II Intrusive Site Investigation should be undertaken to assess both the potential geotechnical and geo-environmental constraints 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 report 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.

17

Subject to the findings of condition 16 above, a Remediation Method Statement shall be provided and approved by this Local Planning Authority prior to any remediation 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 Planning 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.

18

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

Reason

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

19

Following completion of any required remedial/ground preparation works a Verification Report should be forwarded to the Local Planning Authority for review and comment. The Verification 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 Verification 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 verification 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.

Restrictions

20

Notwithstanding the provisions of Part 3, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no permitted change of use to either A1 (retail) or A2 (financial and professional services) uses without planning permission first being obtained.

Reason

To ensure any potential impact on the vitality and viability of the Rotherham Town Centre can be fully assessed.

21

The development shall be carried out in accordance with the approved plans and at no time shall there be any sub-division of the building without the prior written approval of the Local Planning Authority.

Reason

To ensure any potential impact on the vitality and viability of the Rotherham Town Centre can be fully assessed.

Informatives

01

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.

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

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

- Best practicable means shall be employed to minimise dust. Such measures may include water

bowzers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

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

02

The granting of this planning permission does not authorise any signage to be erected related to the development. Such signage is controlled by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and a separate application for advertisement consent may be required.

03

The applicant should be aware that if they wish to use the land to the north-west of the site accessed off Clifton Terrace, which is in the applicant's ownership but outside of the application site for a car park in the future, a planning application will be required and the proposal would be assessed on its own merits.

04

The granting of this permission does not override the requirement for the relevant licensing application(s) which will be assessed on its own merits by the Council's Licensing Service.

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.

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
18 JULY 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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REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 18 JULY 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 | RB2019/0040 |
| Proposal and Location | Outline application for the erection of 16 No dwellings and 16 No apartments in 4 storey block with all matters reserved except for access on land at Millside Centre, Doncaster Road, Dalton. S65 3ET |
| Recommendation | <p>That the Council enter into an Agreement under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <p>A: A commuted sum of £288 000 towards affordable housing in the area.</p> <p>B: Consequently upon the satisfactory signing of such an agreement the Council grants permission for the proposed development subject to the conditions set out in this report.</p> |

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



Site Description & Location

The site comprises of a building previously known as the Millside Centre and lies on the northern side of Doncaster Road in the west of Dalton. The building is set back from the highway and was previously Council owned and was extensively fire damaged in early 2018. The building has permission to be demolished but the structure is still in position on the site.

The site is approximately 0.6 Hectares in area and is moderately sloping with the highest point of the site being in the centre dropping in level to the north and the south.

There is an existing vehicular access onto Doncaster Road in the eastern side of the site and a pedestrian access to the west of the site though this is now closed.

Previously there were a number of mature trees along the southern section of the site though these were removed some months prior to the submission of the application.

Along the front elevation of the site facing Doncaster Road there is a boundary fence incorporating a brick wall and metal railings on top of this.

Background

The only previous planning history relevant to this application was an application to determine whether prior approval was required for the the method of demolition and restoration of the site at the Millside Centre (RB2018/0156).

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.

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.

Proposal

This is an outline planning application with all matters reserved except access for a new residential development. The proposed layout identifies the provision of 32 new dwellings. The scheme will be developed with an overall density in the range of 53 units per hectares.

The development would provide a mix of 2 and 3, bedroom properties which will range from terraced to semi-detached dwellings and single block of apartments.

Following several revisions to the initial proposal the draft layout shows the removal of the eastern access and a new more centralised access. The draft layout shows an area of green space behind Doncaster Road and beyond this a row of two storey properties. The central area of the site has a mix of housing and shared parking. The northern section of the site now proposes a single apartment block 4 storeys high of 16 units (up

from 12 units on the original submission). The existing pedestrian access into the site from Doncaster Road has been removed.

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

Design & Access Statement

It should also be noted that the scheme has evolved since the initial submission of the application and parts of the D&A Statement have now been superseded.

- Landscaping will play an important part of this scheme and has been considered from the outset as part of the overall design.
- The road frontage with Doncaster Road will also incorporate mature planting.
- Dwellings will accord with the internal and external space standard of the SYDG 77m2 Gross internal floor area (GIA) with the apartments having an area of 62m2 GIA.
- The proposal is located in close proximity to a medical centre, pharmacy, dental practice, Asda supermarket, hot food takeaways and schools.
- The site is not in a flood risk zone.

Transport Statement

- This Transport Statement (TS) provides an appraisal of the transport implications of a proposed residential development at the former Millside Centre, Rotherham.
- The proposals involve the demolition of the part burnt-down building at the site and the provision of 32 dwellings; 16 houses and 16 apartments.
- A bus stop is currently located adjacent to the site on Doncaster Road which provides travel in an easterly direction. Due to the positioning of the bus stop adjacent to the site, the relocation of the bus stop is required in order to achieve wider visibility splays from a new site access.
- The new site access will be moved slightly west of the existing access, with the new bus stop to be located further west of the existing bus stop.
- Off-street parking for all dwellings will be provided based on guidance by Rotherham Metropolitan Borough Council (RMBC).
- Pedestrian infrastructure around the proposed development site is well developed. Pedestrian routes throughout the local area are generally provided by well-lit and well surfaced footways, with a network of existing footways and crossing facilities. There is a central refuge island present approximately 45m west of the eastern site boundary on Doncaster Road, with an additional one provided 250m east of the site. A staggered puffin crossing is present approximately 130m east of the site, with additional staggered puffin crossings provided on the Doncaster Road and Oldgate Lane arms of the four-way signalised junction. A further staggered signalised toucan crossing is present approximately 125m west of the site.
- The development site is located within a reasonable cycle ride (up to 5km) of Rotherham town centre and a number of local settlements. Cycle facilities are present within the vicinity of the site, including cycleways and advisory routes.
- The nearest rail station to the site is Rotherham Central Station, located approximately 3.6km to the south-west of the site. Rotherham Central Station is operated by Northern and provides services to various local and regional destinations.
- A road casualty study showed that 50 Personal Injury Collisions (PICs) occurred within the study area around the site during the five year-study period. One collision occurred within the immediate vicinity of the site, however the collision

did not occur as a result of the proposed site or from turning movements, therefore it is considered unlikely that the proposed development would have a detrimental road safety impact on the local highway network.

- TRICS database projections indicate that the development is expected to generate a maximum of 5 two-way vehicle trip movements in the AM peak and 8 two-way vehicle movements in the PM peak hours.
- The modal split of the proposed development has been predicted based on travel pattern information from the comparable development sites in the TRICS database. The modal split predictions indicate that over half of person trips (53.4%) generated by the development would be expected to be made by sustainable modes (pedestrian, cycle, public transport and car passenger).
- Based on the assessments, this TS indicates that the proposed development should have a negligible impact on the operation of the local highway network. Therefore, as the impact of the proposals at the site is not expected to be severe, the proposals are considered to be in accordance with the NPPF.

Noise Assessment

- At reserved matters, the applicant would need to undertake a BS4142 Noise Assessment.
- No development shall take place until details are submitted for written approval by the Local Planning Authority specifying measures to monitor and control the emission of dust during demolition and construction works.
- The permitted hours of work when noise can be audible at a construction site boundary are: MONDAY TO FRIDAY 8:00am to 6:00pm SATURDAY 8:00am to 1:00pm SUNDAY AND BANK HOLIDAYS No work allowed
- NOISE & VIBRATION – GENERAL Noise and vibration must be kept to a minimum by methods of work that conform with the 'Code of Practice for Noise and Vibration Control on Construction and Open Sites' (See BS 5228 Parts 2 and 4: 1997, and EC and UK Noise Legislation, as applicable). At all times the best practicable means as defined in the Act must be employed to reduce noise.
- Stationary noise sources should be sited as far away as possible from neighbouring properties.
- Acoustic barriers consisting of site materials such as bricks, earth mounds or proprietary types should be constructed when noise cannot be sufficiently reduced by careful siting of noise sources.
- Dust suppression system consisting of a fine mist water spray will be available on site.
- All loads entering and leaving site to be covered.

Preliminary Ecological Appraisal

- There are several locally designated sites within 2km of the surveyed area although the closest, Aldwarke Sewage Works LWS, lies over 600m from the surveyed area. Therefore, there will be no impact on designated sites during the proposed development.
- The site is a brownfield site comprising several low ecological value habitats common to sites of its type.
- The grassland on the site appears to be an area of grassland previously managed as amenity grassland that has remained unmanaged.
- The scattered scrub within the surveyed area predominantly comprises sparse scrub and ruderal species, including two invasive non-native plant species that

are becoming established along the boundaries of the site and around the buildings.

- The remaining habitats within the surveyed area are man-made habitats that have suffered from high levels of vandalism and fire damage. Therefore, although the buildings provide some potential for bats and birds the habitats display a generally low ecological value.
- Overall the surveyed area provides a low ecological value due to the common and disturbed nature of the habitats present. The proposed development will have a direct impact on the habitats on site although the habitats present following the development will be similar and therefore the overall impact on the ecological value of the site will be low.
- The dense scrub located outside the surveyed area displays a higher ecological value due to the dense nature of the vegetation that will provide shelter for several fauna species. However, this habitat will remain unaffected by the proposed development.
- Ideally it is recommended that any site clearance works are carried out outside the nesting season, which extends from March to September each year.
- Any site clearance works that commence during the nesting season must be immediately preceded by a thorough nesting bird survey carried out by a suitably experienced surveyor. Any nests identified must remain undisturbed until the young have fledged from the nest.
- It is recommended that a further survey of the site is carried out during the late spring or summer, to accurately establish the extent of the invasive non-native plant species on the site.
- It is recommended that the following biodiversity enhancements are considered during the development, in line with NPPF.

Indicative elevations

- Computer Generated 3D visual appearance
- Draft elevations show two storey houses across the southern section of the site and a 3 storey apartment block in the north.
- Indicative floor layouts show that properties will meet the minimum recommended spacing standards.

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 (housing allocation H25) in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy Policies

CS1 Delivering Rotherham's Spatial Strategy
CS3 Location of New Development
CS6 Meeting the Housing Requirement
CS7 Housing Mix and Affordability
CS14 Accessible places and Managing Demand for Travel
CS20 Biodiversity and Geodiversity

CS21 Landscapes
CS22 Green Space
CS25 Dealing with Flood Risk
CS28 Sustainable Design
CS33 Presumption in favour of Sustainable Development

Sites and Policies

SP11 Development in Residential Areas
SP26 Sustainable Transport for Development
SP32 Green Infrastructure and Landscape
SP47 Understanding and Managing Flood Risk and Drainage
SP52 Pollution Control
SP55 Design Principles
SP56 Car Parking Layout
SP64 Access to Community Facilities

Other Material Considerations

South Yorkshire Residential Design Guide.

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

National Planning Policy Framework: The NPPF came into effect on March 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 of site notices along with individual neighbour notification letters to adjacent properties. One letter of representation has been received from Rotherham Wildlife Trust and can be summarised as follows.

- We wish to highlight the recommendations of the ecology report for further bat surveys to take place, bat bricks and bird boxes to be included in the buildings,

- A sensitive lighting scheme to be published and approved for both the construction phase and development which enables foraging and avoids lightspill on the boundaries of the site
- For an appropriately licensed, experienced surveyor to establish presence of Great Crested Newt,
- A planting scheme of native trees and shrubs to increase biodiversity and a 'hedgehog highway' of suitably sized gaps in fences (or alternatively using hedges instead of fences) to allow hedgehogs to freely move throughout the site.
- Any vegetation clearance to be undertaken outside of bird nesting season (March to September).

Consultations

RMBC

Transportation Infrastructure Service – have assessed the proposals in line with relevant policies and guidance and consider the development to be acceptable subject to the imposition of conditions

Drainage – no objections subject to conditions

Ecologist – no objections subject to conditions

Environmental Health (Noise) – no objections subject to conditions

Environmental Health (Air Quality) – no objections subject to conditions

Affordable Housing Officer – no objections subject to agreed S106 contribution of £288 000 towards local Affordable Housing provision

Yorkshire Water – no objections subject to conditions

Police –_overall no objections. A number of recommendations to the design of the scheme are made to minimise potential crime which are attached as an Informative.

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 and layout
- Impact on neighbouring amenity

- Highway Safety and Transportation Issues
- Flood Risk and drainage
- Noise
- Affordable Housing and Planning Obligations

Principle of development

The site is allocated for residential purposes and is identified as housing site H25 in the Local Plan. The site also comprises of brownfield land with an existing building severely fire damaged with the area surrounding it now occupied by un-managed scrubland.

It is considered that to bring the land back into a productive use would be beneficial for the area and the principle of residential development which would contribute towards the boroughs housing needs is considered acceptable and in accordance with policy SP11 of the Local Plan. The main considerations will be the draft design, highway layout and noise issues which are considered in more detail below.

Design and layout

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..... Design should take all opportunities to improve the character and quality of an area and the way it functions."* This seeks to ensure that all developments make a positive contribution to the environment by achieving an appropriate standard of design.

Policy SP55 'Design Principles', states, in part, that: *"All forms of development are required to be of high quality, incorporate inclusive design principles 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 NPPF at paragraph 124 states, in part, 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, in part, 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 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 H25 within the Local Plan identifies that approximately 35 dwellings are appropriate for the site. In this instance the indicative drawings are in draft format only and do not show final elevations with only access being formally considered. However, the submission of the 3D computer generated aerial view together with indicative site plans are considered that sufficient information has been demonstrated to progress the

application. Whilst the scheme may be of a high density, a future scheme comprising 32 units can be accommodated on the site. This is considered to achieve an acceptable balance between efficient land use of the site, whilst safeguarding spacing standards and outside amenity areas.

Impact on neighbouring amenity

Policy SP55 'Design Principles' states, in part that: *"the design and layout of buildings to enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from overshadowing."*

Further to the above the NPPF at paragraph 127 states, in part, that 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."*

The proposed residential units on this phase of development comprise of a mixture of 2 and 3 bedroom dwellings and apartments which are 4 storeys in height. The site is not located adjacent to any existing properties, however it is acknowledged that land to the north and east are reserved for future development.

With regard to the impact of the proposal on the amenity of future residents of this development, it is noted that the South Yorkshire Residential Design Guide (SYRDG) provides minimum standards for internal spaces which includes 62sqm for 2 bed properties and 77sqm for 3 bed properties. All of the indicative house types proposed are shown to adhere to these space standards and each dwelling will have private rear gardens. Whilst this is not being formally considered at this stage, it is considered that a future scheme along the lines shown could be supported.

The proposed apartment blocks benefit from outside amenity space with a total area in excess of 550sqm shown on the outline plan. This is considerably above the minimum recommended area of 210 sqm as indicated in the SYRDG.

The indicative plans show a spacing distance of approximately 10m between the eastern section of the apartment and the next adjacent site which may also be subject to future development. This meets the standards set in the SYRDG and is considered a sufficient distance to prevent the adjacent land from being sterilised or unfairly constrained from future development.

Having regard to all of the above and on balance, it is considered that the amended indicative layout and proposed dwellings would conform with the advice guidance set out in the SYRDG and paragraph 17 of the NPPF.

Highway Safety and Transportation 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.”*

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.”*

In general, the site has good access to public transport and local facilities, being within easy walking distance to existing bus stops located on Doncaster Road.

Taking all of the above into consideration, it is considered that this proposed outline application is in a sustainable location and the proposed layout has been designed in accordance with the guidance set out in the South Yorkshire Residential Design Guide. For these reasons it is considered that the proposed development will not have a detrimental impact upon highway safety and the proposal complies with Policies CS14 and SP26 and guidance within the NPPF.

Flood Risk and drainage

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."*

Details relating to the proposed drainage of the site have been submitted in support of this application. These plans have been assessed by the Council's Drainage Engineers who have confirmed they do not anticipate any drainage or flooding issues which cannot be resolved. Accordingly it is considered that these issues can be conditioned at the reserved matters stage. The flood routing plan requires further investigation prior to the commencement of development. The submission of this amended information can however be secured via a suitably worded condition.

Likewise Yorkshire Water have raised no objections, subject to standard conditions.

Noise and Air Quality Issues

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."*

Taking the above into consideration, a Noise Assessment has been submitted in support of the application. The main noise generating source within the vicinity of the site is considered to be the delivery area to the rear of the ASDA store to the north west of the site. The Council's Environmental Health Officer has reviewed the submitted acoustic report (ref NIA/8438/19/8362/v2/Doncaster Road). It is acknowledged that this is a draft layout, however the officer has indicated that they consider that they are satisfied that the outline application can be approved subject to conditions that all remedial works detailed through the noise mitigation strategy shall be incorporated into the final design and validated upon completion.

Environmental Health have queried the report detailing ventilation and glazing requirements. As the design for north facing rooms are non-standard they have requested if it is possible to condition (via permitted development or similar restrictions) that when owners come to replace these windows in the future that they must replace with like, or better, specifications. The concern is that owners replacing windows with a lower specification and could introduce a noise issue.

Having regard to the above and subject to appropriately worded conditions, it is considered that whilst the external noise environment at this site is not ideal for

residential development, further mitigation can be implemented in the form of specialist glazing and ventilation methods if the actual noise levels do not meet those as predicted in the noise assessment. On balance therefore and with the additional noise monitoring being secured via appropriately worded planning conditions, the proposed development is acceptable and in accordance with the provisions of policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

Turning to the Air Quality aspects, the Council's Air Quality Officer notes that there is no mention of Electric Vehicle Charging points being installed in the car park which will have parking for 55 vehicles. By 2032 it is forecast that 50% of UK vehicles will be ULEV (i.e. not petrol or diesel) and by 2040 new diesel and petrol cars will be banned. A key theme of the NPPF is that developments should enable future occupiers to make cleaner vehicle choices and (paragraph 35) "incorporate facilities for charging plug-in and other ultra-low emission vehicles". Therefore, an appropriate provision of electric vehicle recharging is expected for most developments

It is recommended that 10% of the parking spaces are provided with EV charging points which shall be managed and maintained throughout the lifetime of the development. These should be available for use for all future occupants of the development.

Affordable Housing and Planning Obligations

Policy CS7 'Housing Mix and Affordability' states in part, that: "Sites of 15 dwellings or more..... shall provide 25% affordable homes on site."

In this case the Affordable Housing Officer has indicated that if there was on site delivery then it would be delivered as 8 x 2 bedroom apartments at 62m² in size. However, the applicant has indicated a preference to pay a commuted sum in lieu of on-site delivery. In this instance it is considered that this would be preferable from a housing management perspective rather than managing half of the proposed apartment building.

The applicant has agreed an open market value of £90,000 for each of the apartments. The commuted sum for each apartment is 40% of this open market value which equates to £36,000. Therefore the total commuted sum is £36,000 x 8 = £288,000. The S106 agreement outlines this in detail with proposed payments in four instalments of £72,000. The first instalment would be at the start of the development and the final payment on completion of the 30th Unit.

This is in addition to Community Infrastructure Levy (CIL) payments. Overall the proposal is considered to fully comply with Core Strategy Policy CS7 'Housing Mix and Affordability' as well as the advice within the NPPF.

Conclusion

The principle of residential development on this site which is allocated for residential purposes in the Local Plan is considered to be acceptable. The overall layout of the site is in draft format and is not formally being considered at this stage. However, the indicative plans offer an acceptable balance between achieving an efficient use of the land available as recommended in the NPPF whilst safeguarding a satisfactory provision of individual private amenity space for each dwelling.

A variety of house types and sizes have been provided with an appropriate contribution to affordable housing provision.

There are no objections to the proposals from the Council's Transportation Unit. Internal layout geometries have been set out in accordance with the South Yorkshire Residential Design Guide and Manual for Streets.

The application site is not located within a Flood Zone. A condition regarding the submission of an amended flood routing plan is to be attached to any permission.

In terms of the landscaping within the site, the applicants have submitted draft site plans and included on the 3D computer model. Whilst these lack final detail, it is considered that these show that an acceptable future landscaping scheme could be achieved during the submission of a reserved matters application.

Initially concerns were raised regarding the impact of the adjacent commercial operator on the amenity of future residents, however conditions requiring further noise monitoring, mitigation (if necessary) and final design details are considered to adequately safeguard the potential for future noise complaints.

Conditions

01

- a. Application for approval of reserved matters must be made within three years of the date of this permission.
- b. The development hereby approved must be begun not later than whichever is the later of the following dates:
 - (i) The expiration of five years from the date of this permission; OR
 - (ii) The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

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

02

The reserved matters application shall submit final details of the layout, scale, appearance and landscaping of the site to be approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason

No details of the matters referred to having been submitted, they are reserved for the subsequent approval of the Local Planning Authority.

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 Local Plan Policies and the NPPF.

04

Prior to the completion of the scheme a plan shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the occupation of the first dwelling.

Reason

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

05

No above ground development on the site shall be commenced until details of the proposed revised bus stop/shelter/road markings indicated in draft form on plan reference LTP/3582/P1/001 sheet 2 revision O have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented concurrent with the construction of the new vehicular access to the site.

(The developer will appreciate that these works in the highway will require the consent of the SYPTE and an Agreement under S278 Highways Act 1980).

Reason

In the interests of road safety.

06

The proposed on site layout shall be designed and constructed in accordance with the South Yorkshire Residential Design Guide.

Reason

In the interests of road safety and satisfactory highway design.

07

The detailed plans to be submitted in accordance with this outline permission shall show 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.

08

The detailed plans to be submitted in accordance with this outline permission shall show a scheme to 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.

09

The Reserved Matters application shall submit a foul and surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the construction details and shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:-

- * The utilisation of holding sustainable drainage techniques (e.g. soakaways);
- * The limitation of surface water run-off to equivalent brownfield rates (i.e. minimum of 30% reduction in flows based on existing flows and a 1 in 1 year return period);
- * The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus a 30% allowance for climate change, based upon the submission of drainage calculations; and
- * A maintenance plan including responsibility for the future maintenance of drainage features and how this is to be guaranteed for the lifetime of the development.

Reason

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

10

The Reserved Matters application shall submit a flood route drawing showing how exceptional flows generated within or from outside the site will be managed including overland flow routes, internal and external levels and design of buildings to prevent entry of water, 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 and will be safe from flooding in accordance with the Local plan and the NPPF.

11

The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason

In the interest of satisfactory and sustainable drainage

12

There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of

connection; and

c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

Reason

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

13

The detailed plans to be submitted in accordance with this outline permission shall include a detailed landscape scheme. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

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

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

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with the Local Plan

14

The detailed plans shall show a minimum of 10% of the parking spaces to be provided with Electric Vehicle charging points which shall be managed and maintained throughout the lifetime of the development.

Reason

In order to increase and support future renewable energy infrastructure in accordance with local and national government objectives.

Informatives

01

Yorkshire Water

The developer is proposing to discharge surface water to "SUDS" / public sewer however, sustainable development requires appropriate surface water disposal and

Yorkshire Water promote the surface water disposal hierarchy. The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. Only as a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event. The developer will also be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of YWS/the LPA by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

02

Police

South Yorkshire Police indicate that crime research in the area suggests a problem with ASB, I would recommend therefore that the entrance to the development be designated by two brick pillars on either side of the Road and a rumble strip on the road surface denoting a change in space, and to deter casual intrusion. The rear of the entire development should be enclosed with a 1.8-metre fence to prevent fence hopping from the rear of adjoining properties.

Defensible Space

There are no details of front boundaries of the houses, but if they are to be walls, these should not be flat topped as this would provide seating for youths or passers-by and may cause gathering of youths and facilitate ASB.

Surveillance

Any landscaping and front boundaries to the bungalows should be kept low at no more than 1 metre high and any trees to have no foliage below 2m to aid natural surveillance. Positioning of trees should be careful not to mask any Lighting Column's.

Vehicle Parking

The parking areas must be well lit. Consideration should be given to providing additional building mounted lighting to these areas.

Lighting

All external paths and car parking areas should be well lit with an LED lighting scheme and to standard BS5489 with no dark areas.

Security of Dwellings

In line with SBD standards, all front / rear doors and ground floor windows should comply with PAS 24:2016. All front and rear doors should be lit with a wall mounted luminaire to provide lighting in line with standard BS5489 which should operate on a dusk to dawn sensor and spread the light downward. The communal doors to the apartment blocks should be to standard LPS 1175 and each individual apartment door be to Pas 24:2016

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 | RB2019/0490 |
| Proposal and Location | Removal of storage sheds and pub garden marquee, erection of covered pergola and freestanding outside bar and beer store building at Three Horse Shoes, 133 Bawtry Road, Wickersley |
| Recommendation | Grant subject to conditions |

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



Site Description & Location

The application site is located within Wickersley district centre and is accessed off Bawtry Road and Green Lane. The site is set back from the busy Bawtry Road which forms part of the major road network.

The site is an existing public house with an outdoor seating area on the forecourt to the front and a beer garden to the rear. The beer garden is at a slightly elevated level and had a small marquee adjacent to the rear boundary and Green Lane, a bouncy castle and a small storage shed.

There are a number of on-site parking spaces to the side and rear of the building.

The proposed development is immediately adjacent to the eastern boundary which is shared with the rear garden of No.2 The Grove and a site comprising of a commercial building with on-site parking.

Background

The site has a number of previous planning applications on various alterations as a public house, the most recent are as follows:

RB2005/1986 – Formation of new disable access ramp – Granted conditionally

RB2007/1839 – Canopy to side – Granted conditionally

RB2016/0068 – Display of various illuminated signs & display of various lighting – Granted conditionally

The proposed development is not Community Infrastructure Levy (CIL) liable.

Proposal

This is a retrospective application for the removal of storage sheds and pub garden marquee and erection of a covered pergola and freestanding outside bar/beer store building.

The proposed pergola is a mono-pitched timber structure that is approximately 2.8m high at the front and 3m at the rear, it is 4.2m wide and 6.3m deep. It is sited on the existing beer garden level and with a ramp on to the car park level.

The proposed outside bar replaces 2 older storage sheds and is sited along the eastern boundary. It is a flat roof timber structure that is 3.6m wide, 2.4m deep and 2.5m high.

The original proposal also includes the conversion of the existing parking area at the rear into a beer garden. Whilst this element does not require planning permission as there is no material change of use, the applicant has agreed to retain 3 parking spaces for staff parking purpose.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and the Sites and Policies Document was adopted by the Council on 27th June 2018 which form part of Rotherham's Local Plan.

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

Core Strategy

- | | |
|------|--|
| CS14 | 'Accessible Places and Managing Demand for Travel' |
| CS28 | 'Sustainable Design' |
| CS29 | 'Community and Social Facilities' |

CS33 'Presumption in Favour of Sustainable Development'

Sites and Policies Document

SP29 'Sustainable Transport for Development'

SP52 'Pollution Control'

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 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 of site notices along with letters to the immediate adjacent residential properties.

3 representations and a petition (11 residents with 10 different addresses) have been received objecting to the proposals and the comments are summarised below:

- Concern recurrence of structures blowing over the adjacent properties
- The development would intensify the use of rear garden area with unacceptable noise nuisance to local residents late in the evening. There has been noise complaints last summer as a result of external music events which are detrimental to residential amenity
- The outside bar would encourage activities to the rear of the site which is surrounded by residential properties which is inappropriate and not in keeping with the area

The agent of the applicant, Wickersley Parish Council and Councillor Emma Hoddinott have requested the right to speak at the meeting.

Consultations

RMBC - Transportation and Highways Design: Raise no objections to the proposal

RMBC - Environmental Health: Raise no objections to the proposal subject to planning condition on no amplified or live music at the rear beer garden.

Appraisal

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

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

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

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

- The principle of the development;
- The appearance of the development;
- Impact on neighbouring properties and transportation issues;
- Other issues

Principle of development and transportation issues

With regards to the principle of the development, the application site is located within an established residential area which is allocated for residential purposes within the adopted Local Plan. However, the site has been used as a public house from 1970s and the rear area has also functioned as a beer garden for many years.

A Public House constitutes a community and social facility and therefore Core Strategy Policy CS29 'Community and Social Facilities' is relevant which indicates that the Council will support the retention, provision and enhancement of a range of community and social facilities in a sustainable location which enhance the quality of life, improve health and well-being and serve the changing needs of all of Rotherham's communities.

Core Strategy Policy CS33 'Presumption in Favour of Sustainable Development' also states that "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

Bearing in mind that the development does not alter the nature of use of the site as and it is ancillary to the function of the main building, it is therefore considered that the development is acceptable in principle and in accordance with the Core Strategy Policy CS29 and CS33.

The appearance of the proposal

Core Strategy Policy CS28 'Sustainable Design' states that: 'Proposals for development should respect and enhance the distinctive features of Rotherham. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Design should take all opportunities to improve the character and quality of an area and the way it functions.

Policy SP55 'Design Principles' also 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 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 National Planning Policy Guidance (March 2014), notes that: 'Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations.' The NPPG further goes on to advise that: 'Local planning authorities are required to take design into consideration and should refuse permission for development of poor design.'

The proposed development is sited to the rear of the site and set away from the boundary with Green Lane. It is considered that the development by virtue of its scale, height, siting and materials would not result in a detrimental impact on visual amenity of the site and the general street-scene. The use of timber is considered appropriate for the setting within the existing beer garden and whilst it may be visible from the rear gardens of the neighbouring residential properties, it will not appear out of character being a simple timber framed open sided structure.

Taking account of this, the proposals are therefore considered to be in accordance with Local Plan Policies CS28 'Sustainable Design' SP55 'Design Principles' and the NPPF.

Impact on neighbouring properties:

Policy SP11 'Development in Residential Areas' states '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.

SP52 'Pollution Control' states '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.

Paragraph 127(f) of the NPPF states planning decision 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

The rear of the site has been used as a beer garden for many years such that it is considered that the proposed development does not introduce a new use of the site and has not altered the character and function of the area on this basis.

It is acknowledged the representations have raised concerns that the development would intensify the use of the site and result in additional noise disturbance to the adjacent residents. Furthermore, noise complaints have been received in the recent years from events being held in the beer garden.

The applicant has confirmed that the previous outdoor music events were organised by the former manager and the current manager has not held any such events. Whilst the structure was originally labelled as a bandstand in the description of development in the planning application, the applicant has confirmed that it is not intended to provide cover for musical events nor have music piped within it. Its purpose is to provide a covered outdoor area where customers can sit outside and drink and eat which replaces the larger marquees that were erected.

The proposals also include the provision of a free standing outside bar adjacent to the proposed pergola. This area is clearly well used by patrons during nice weather and the provision of a bar, whilst encouraging the use of the beer garden is not considered to significantly intensify the possible use of this area beyond that which it has previously been used for. The main reasons for complaints from the site have been around the amplified music that has occurred in the past and to prevent this from occurring in the future (and recognising that the pergola and outdoor bar does make this area more attractive) it is considered appropriate to impose a condition preventing any live or amplified music being played in the entire beer garden.

It is therefore considered that subject to the restrictive music condition the proposed development would comply with the requirements of policies SP11 'Development in Residential Area', SP52 'Pollution Control' and the NPPF paragraph 127.

In consultation with highway officer, it is considered that the increase in floorspace is minor which does not have any potential impact on highway safety or the capacity of the local road network. The proposal therefore complies with policies CS14 and SP29 and the NPPF subject to planning conditions on the revised car park layout.

Other issues

The proposed development is permanently fixed into ground unlike the previous marquee which should address the concern that was raised regarding the previous structure being blown over the wall.

Conclusion

It is considered that the proposed development is acceptable in principle given that there is no change of use involved with this proposal.

The proposed development is acceptable in terms of its appearance and would not result in any adverse impact on the surrounding area, and would not have an adverse impact on the amenity of the occupiers of neighbouring residential properties or on the surrounding highway network, subject to the recommended conditions.

It is therefore recommended that the application be granted subject to the conditions as set out below.

Conditions

01

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) (Existing Plan AS01)(received 22/03/19)

(Location Plan AS01A, Proposed Beer Garden Plan AL01H, Proposed Outdoor Bar Details AD01G, Proposed Timber Bandstand Detail AD02B) (received 16/05/19)

Reason

To define the permission and for the avoidance of doubt.

02

Within 3 months of the date of this permission details of the timber cladding to be used on the outside bar, including stain colour, shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented.

Reason

In the interest of visual amenity and in accordance with the Local Plan and NPPF.

03

No external amplified or live music shall be played outside the premises.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with the Local Plan and NPPF.

04

The external bar hereby permitted shall only be used between the hours of 11:00 – 00:00 on Mondays to Sundays.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with the Local Plan and NPPF.

05

The car parking area to the rear of the building as shown in the approved plans shall be provided 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.

POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what additional information was necessary to make the scheme acceptable. The applicant agreed to provide the additional information and the scheme is 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.

Following an objection raised from local residents about the validity of the sequential test carried out, the applicant has provided additional sequential test information assessing the following local properties:

“No 3 School Rd (Vape Shop) - This property was still open in early March with no sign on the shop saying it was to let. Furthermore, it did not appear in any online web searches. We have now discovered from the owners that the property is on term contract lease and even though empty, rent is still being paid and the property therefore cannot be sublet until the lease runs out in the future. In any event, double yellow lines exist outside the shop so that parking would be an issue with people likely to park on Church Street.

5-7 School Road - This is a shop currently occupied by Designers Hairdressers. One of the objectors to my client’s planning application has also made a formal complaint to RMBC about the customers from the hairdressers parking on Church Street so it seems a little odd that they believe that 3 School Road would be a good location for the White Loft.

1 Thomas Street - Whilst this was formerly a barbers and equestrian shop it is now a residential property and it is in a residential area and not on the High Street.

63 Wales Rd - This property is not on the market. It did have a “for sale” sign which is now gone, and it does not appear on any web searches.

70 Wales Road - This is a residential property with no indication that it has ever been a commercial property.

75 Wales Road - This property was not on the market in early March and is now let.

79 Wales Road - This property was not on the market in early March and is now let.

83 Wales Road - On 11th June we checked Zoopla, Prime- Location, Mitula, and Commercial Property Online plus Fields estate agents and Willow Estate agents and only 83 Wales Road was available which we have already identified as unsuitable.

108 Wales Rd (Kiveton PC Repairs) - This property is situated at the side of Wales Road which has parking restrictions, including no parking between 8am and 11pm. This inevitability leads to parking problems with people parking on the adjoining side streets. The property was a computer repair shop and has a separate customer counter area, separate office and separate workshop. This is a configuration that would not work for The White Loft. Consequently, structural alterations would need to be carried out at considerable expense. It may be that some of the structural works would not be permissible. It should be added that this building was still occupied by The PC repair business until late March/early April 2019.

119 Wales Road (Kiveton Deli) - This property was not on the market for letting in March and the building has recently been sold.

121 Wales Road (Reel Carp Baits) - This property was not on the market back in March or now. There is no sign outside the unit, and it does not appear in any on-line searches. It is possible that 119 and 121 could have been sold together.

None of the above would be suitable for The White Loft business model because it is not a High Street business.”

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.
- There are sequentially preferable sites available within existing retail centres.
- The arguments listed in the sequential test carried out do not withstand scrutiny for reasons including - Privacy is available in shops; Privacy can be provided elsewhere / otherwise than in 7 Church Street Wales; Being part time does not preclude the business being in a shop in an existing retail centre; There is no evidence that a unit in a retail centre is unaffordable.
- The use should be required to be within an existing retail centre.
- The use not being within an existing retail centre is to the detriment of retail centres.
- A shop selling clothes is not a 'convenience shop serving the local area only' in Local Plan reasoned justification paragraph 4.44 terms.
- That the use is unsustainable in this location.
- Evening Prosecco parties are still taking place, to the detriment of local amenity and parking.
- Customers are parking in the nearby Public House car park.
- The existing gates are not suitable for the proposed parking arrangements and the gravel parking bays cannot be marked out.
- The recommended conditions do not meet the tests set out in the NPPG relating to the use of conditions.

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.

Objectors have identified a number of alternative sites which it is suggested should also be considered. The applicant has provided a further assessment of these sites. Before considering this evidence It is important to note that:

- sequential test evidence should be proportionate to the scale of the application;
- a catchment limited to considering Kiveton Park District Centre is considered acceptable;
- any assessment must have regard to the operator’s business model; and
- as the application relates to less than 500sqm gross floorspace, the impact test element of NPPF and Policy CS12 is not relevant.

The applicant has provided some additional information setting out reasons for discounting the additionally identified sites, in addition to various additional documents related to the sequential test requirements of NPPF and its application. The Council does not consider that the lack of privacy in a shop would be a defining factor in discounting it as part of a sequential test analysis.

It is noted that 3 School Road, Wales is more than 300m from District centre and not in an ‘edge of centre’ location (having regard to the definition in NPPF), and therefore not a sequentially preferable site which requires assessment. Furthermore the proposed shop has limited opening hours (i.e. no more than 22 hrs per week), making a shop unit unaffordable to the applicant as this is clearly different to opening hours for other mainstream retailers (e.g. 9 to 5, six days per week would equate to 48 hours – more than double that proposed). Whilst no viability evidence was provided it is accepted that the limited opening hours is unlikely to generate sales sufficient to make renting a unit, for example on the High Street, affordable.

It is therefore considered that the additional information provided by the applicant appropriately identifies why sequentially preferable sites are not suitable, available or viable.

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.

An objector has raised concerns regarding the repositioning of the gates, however the applicant has confirmed that the gates are to remain unaltered and that the gates will not block the highway when open. An amended plan has been submitted to clarify the gates issue showing them retained as existing.

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 the 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.

An objection has been raised in respect of the proposed conditions to be imposed. The wording of the conditions are considered appropriate and will ensure customer activity does not take place outside of the specified hours including Prosecco Parties, which the applicant has agreed to cease. Whilst the conditions do not specify delivery hours, this is not considered necessary as the applicant has adequate off street parking and no harm to neighbouring amenity will occur. In any event, the applicants have indicated that they purchase the clothes and bring them to the site.

In terms of the enforceability of any conditions, they are considered enforceable and any breaches of a condition can be investigated by the Council.

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 (including promotional events) 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 18 June 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.