

## PLANNING REGULATORY BOARD

Date:- Thursday, 29 August 2019      Venue:- Town Hall, Moorgate Street,  
Rotherham. S60 2TH  
Time:- 9.00 a.m.

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

### AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence (substitution)
4. Declarations of Interest (Page 1)  
*(A form is attached and spares will be available at the meeting)*
5. Minutes of the previous meeting held on 8th August, 2019 (Pages 2 - 3)
6. Deferments/Site Visits (information attached) (Pages 4 - 5)
7. Development Proposals (Pages 6 - 124)
8. Report of the Assistant Director of Planning Regeneration and Transport (Pages 125 - 128)
9. Updates
10. Date of next meeting - Thursday, 19th September, 2019 at 9.00 a.m.

### Membership of the Planning Board 2019/20

Chairman – Councillor Sheppard  
Vice-Chairman – Councillor Williams  
Councillors Atkin, Bird, D. Cutts, M. S. Elliott, Jarvis, Sansome, Steele, John Turner, Tweed,  
Walsh and Whysall.



**SHARON KEMP,**  
Chief

**Executive.**

# Planning Regulatory Board 'Public Right To Speak'

## REGISTERING TO SPEAK

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

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

## WHEN YOU ARRIVE

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

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

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

The Council Chamber is equipped with microphones and a hearing loop

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

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

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

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

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

## **YOUR RIGHT TO SPEAK**

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

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

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

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

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

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

## **CONDUCT OF COMMITTEE MEETINGS**

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

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

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**PLANNING BOARD**

**MEMBERS' DECLARATION OF INTEREST**

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

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

**1. Disclosable Pecuniary**

**2. Personal**

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

*(Please continue overleaf if necessary)*

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

Signed:- .....

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

**PLANNING BOARD**  
**8th August, 2019**

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

An apology for absence was received from Councillor Whysall.

The webcast of the Council Meeting can be viewed at:-

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

**20. DECLARATIONS OF INTEREST**

There were no Declarations of Interest to report.

**21. MINUTES OF THE PREVIOUS MEETING HELD ON 18TH JULY, 2019**

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday, 18<sup>th</sup> July, 2019, be approved as a correct record of the meeting.

**22. DEFERMENTS/SITE VISITS**

There were no site visits or deferments recommended for this agenda, but it was suggested that consideration be given to a site visit for the Lidl Store at Swallownest when this application was to be presented to the Planning Board.

**23. 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 Mr. F. Rogers (Applicant) attended the meeting and spoke about application RB2018/1636 (outline application for the erection of 8 No. dwellinghouses with all matters reserved at land adjacent 43 Clement Street, Kimberworth).

(2) That, with regard to application RB2018/1636:-

(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 a commuted sum of £320 for each tree/group of trees removed (as identified in the AWA Arboricultural Report, dated June 2108, and as part of any reserved matters application) shall be provided so that the lost green infrastructure and amenity can be replaced within 500 metres of the site in the form of tree planting.

(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.

(3) That applications RB2019/0738 and RB2019/0875 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

**24. UPDATES**

Further to Minute No. 18 of the meeting of the Planning Board held on 18<sup>th</sup> July, 2019, Members were advised that the recent two retrospective appeals at The Unit, Dale Road, Rawmarsh and at The Pitches Site were now to be heard earlier than anticipated. Start dates had now been received for both.

Resolved:- That the information be noted.

**25. DATE OF NEXT MEETING**

Resolved:- That the next meeting of the Planning Board take place on Thursday, 29<sup>th</sup> August, 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.

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE  
29 AUGUST 2019**

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

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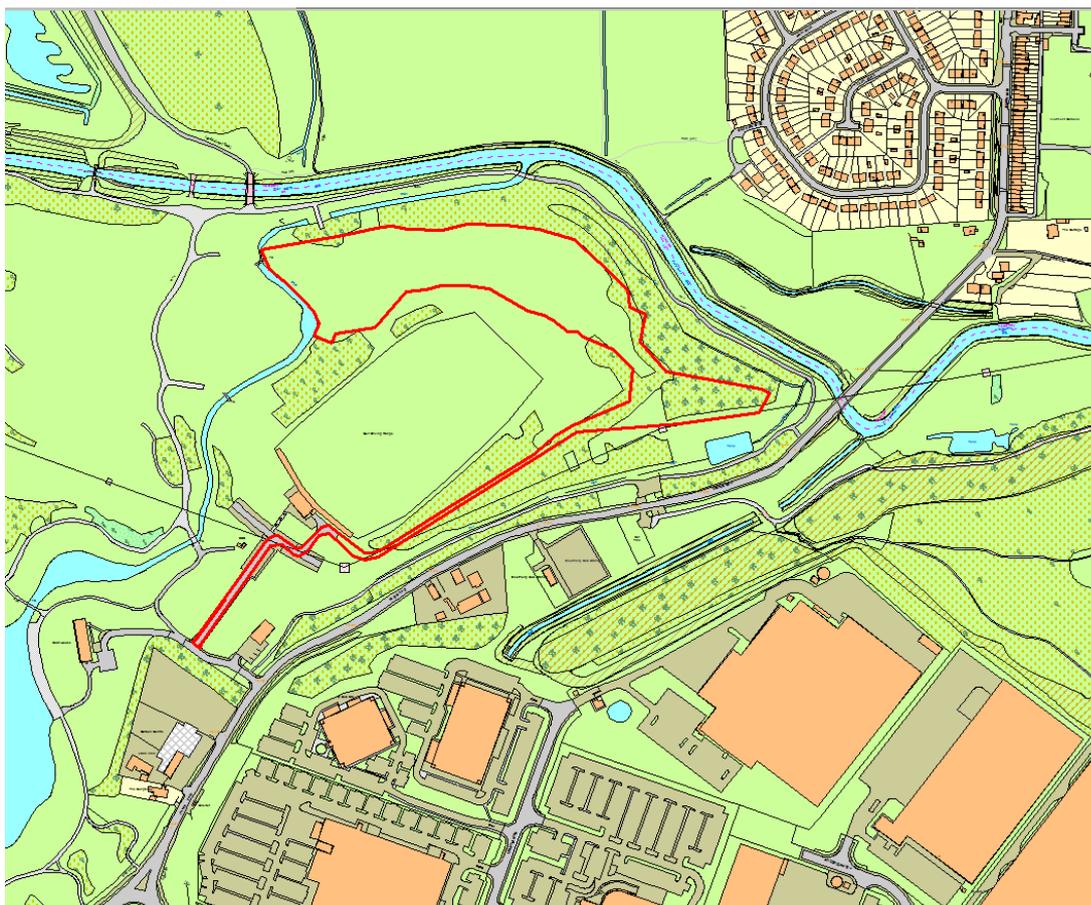
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**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 29 AUGUST 2019**

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.

<b>Application Number</b>	<b>RB2018/1497</b>
<b>Proposal and Location</b>	Engineering operation to form extension to golf course at Waterfront Golf Ltd Station Road Wath upon Dearne
<b>Recommendation</b>	<b>Granted Conditionally</b>

This application is being presented to Planning Board as it is a major application and does not fall within the scheme of delegation.



**Site Description & Location**

The application site covers 2.9 Hectares and is located off Dearne Road within the Wath area of the Borough. It forms part of the land where Manvers Main Colliery was located and is formed from the former colliery spoil tip. The spoil tip was reclaimed and re-profiled for a golf course and the application area is located on the eastern side of the

site around the perimeter of the driving range. The site is partially restored to a level for a golf course but was never fully completed.

The River Dearne forms the northern and north eastern boundary of the site, beyond which are residential properties located on South Drive.

Access is gained via the shared access with Manvers Waterfront Boat Club off Dearne Road.

### **Background**

RB1969/6438 - Extension to dirt tip – Granted Conditionally

RB1992/0387 – Proposed coal recovery from former colliery spoil tips known as W.R.1 and W.R.2, including retention and continuation of use of the existing tip washing plant on adjacent former Wath Colliery tip to the south (originally granted temporary permission under ref R85/702P) to process the spoil - all on land – Granted Conditionally

RB1992/1175 - Variation of planning condition number 11 attached to planning permission R92/387P relating to on site noise levels and vehicle reversing alarms at spoil tip sites WR1 and WR2 – Granted Conditionally

RB2004/2304 - formation of golf course with associated driving range, clubhouse & greenkeepers store, erection of a boathouse, residential development (comprising 10 apartment blocks, 202 dwellinghouses & retirement village), public house/restaurants, extreme sports centre, bowling alley, bingo hall, hotel, health & fitness centre, day nursery, neighbourhood centre including medical centre, car showroom, petrol station, general industrial units and landscaping (including boardwalks & picnic areas) – Granted Conditionally

### **Proposal**

This is a full planning application which seeks permission to strip off the existing vegetation and a thin cover of soil and then import 25,000 cubic metres of recovered engineering material from the construction excavation sector to provide soils for the golf course and remove some of the undulations so there is an anti-clockwise route around the eastern end of the golf course site and thereby forming a 15 hole golf course.

This proposal is to import inert material which will consist mainly of excavation material such as sandstones, mudstones and bricks/rubble. The material being imported will be regulated under an Environmental Permit or by agreement that the material has met the end of waste criteria for aggregates

The 25,000 cubic metres equates to 50,000 tonnes of material which is necessary to profile the course and cap off the colliery waste lagoons previously tipped. It is proposed to undertake the golf course construction works over a three year period and the capping should be completed within 2 years of the grant of permission. A further year is required for the subsoil and topsoil to be laid down and seeded with grass.

The proposed level changes across the site vary depending upon the existing land form, however in general, the western area will be raised up to a maximum of 4m and the

remainder of the area north of the driving range is proposed to be raised between 1.1m and 1.8m.

It is envisaged that there will be a maximum of 40 vehicular movements per day (20 in 20 out) required for the scheme. This will allow the applicant a degree of flexibility dependant on the availability of suitable restoration materials which may not consistently be available throughout the year.

Having regard to the working method, the site is to be stripped of vegetation and this grass, shrub and soil will be stored on site to the western end to act as a barrier to limit the area of working to within the application area and form a screen to other users of the golf course.

Any clay and drainage aggregates brought onto site will be temporarily stored within the application site in heaps not exceeding 3 metres high so that the materials are available on site and can be delivered from source when processed and available. Soils brought to the site nearing the end of the development will be stored on the western boundary of the site at the side of the soil taken off the site at the beginning of the work and these soils laid down at the end before the final soil cover with the seed bank is laid. The golf course will then deal with the final preparation of the course to form tees and greens in preparation for completing the site to finished levels. The course will have a perimeter swale around the perimeter on the boundary of the woodland and the course 2 metres from the crest to prevent surface water running down the slope.

### **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 *Green Belt* purposes in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

#### Core Strategy

CS4 Green Belt  
CS20 Biodiversity and Geodiversity  
CS21 Landscape  
CS22 Green Space  
CS26 Minerals

#### Sites and Policies

SP2 Development in the Green Belt  
SP10 Proposals for Outdoor Sport, Outdoor Recreation and Cemeteries in the Green Belt  
SP32 Green Infrastructure and Landscape  
SP33 Conserving and Enhancing the Natural Environment  
SP52 Pollution Control  
SP54 Contaminated and Unstable Land

Barnsley, Doncaster and Rotherham Joint Waste Plan

WCS4: Waste management proposals on non-allocated sites

WCS6: General considerations for all waste management proposals

**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.

**Publicity**

The application has been advertised by way of press, and site notice along with individual neighbour notification letters to adjacent properties. Two letters of support have been received. Their comments are summarised below:

- Dearne Valley Trust Ltd fully supports this application. It will enhance the existing facilities and hopefully encourage more people to take up sport and enjoy an active lifestyle.
- since the change of hands, the club has gained a lot of respect from the members, including more and more members wives / husbands families attending, more so for the social side of golf.
- The applicant has worked alongside South Yorkshire Police (SYP), in bringing younger golf novices into the game. In respect of this, over the last 12 months at least 50 youths have attended the club, in partnership with Swinton Comprehensive.
- Working alongside SYP cuts down the anti social behaviour in our area, and teaches kids to have respect not just for others and the place they live, but also they learn to have respect for themselves.
- I feel having a smaller, shorter course will bring more people into the game, as i know, with been a novice golfer, sometime hitting a ball on the driving range is good, but once you get on such a big course, it can be very intimidating, so having a smaller / shorter course is what we need in the area where we live.

**Consultations**

RMBC - Transportation Infrastructure Service notes that the proposals include the importation of some 50,000 tonnes of fill material involving up to 40 No. HGV movements per day (ie. 20 in and 20 out). The material is to be brought from the

Barnsley area via A633 Manvers Way and Station Road/Dearne Road into the site. On this basis, no objections are raised.

RMBC – Land Contamination Officer – has assessed the content of the submitted Phase I and Phase II Contamination Site Investigation Report raise no objection in principle, however recommend conditions requiring the submission of further information prior to the commencement of development.

RMBC – Environmental Health raise no objections to the proposed development subject to informatives outlining best working practices.

RMBC - Ecology raise no objections to the proposed development subject to the mitigation measures outlined in the Ecological Impact Assessment being followed.

RMBC Landscape acknowledge that the proposals seek to retain the existing established perimeter vegetation on the perimeter of the existing driving range and re-contour the land between the existing tree belt and driving range area. On that basis there will be no discernible change in views and therefore no negative visual amenity as a result.

RMBC – Tree Service raise no objections to the proposed development as existing trees will be protected throughout the engineering works and adequate planting is proposed as part of the re-planting scheme.

RMBC – Drainage raise no objections to the proposed development subject to access to the watercourse for maintenance purposes being maintained.

Environment Agency have no concerns from a flood risk perspective and recommends that the applicant contacts them regarding the need for an environmental permit.

Sheffield Area Geology Trust raise no objections to the proposed development

## **Appraisal**

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

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

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

The main considerations in the determination of the application are:

- Principle of Development
- Assessment of Visual and Landscape Impacts
- Ecological Considerations
- Amenity Issues
- Transportation Issues

- Flood Risk and Surface Water Drainage

### Principle of Development

The site lies within a wider Green Belt allocation and the proposals seek permission for the importation of material to raise levels in order to extend the existing golf course.

In this regard it is important to note that the NPPF at paragraph 145 states that “*A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

*b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.”*

This is further re-enforced in Policy CS4 ‘Green Belt’ which states “*Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy.*”

Additionally, Policy SP2 ‘Development in the Green Belt’ states “*A Green Belt whose boundaries are defined on the Policies Map will be applied within Rotherham Borough. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In considering planning applications for new development, including improvements to essential infrastructure such as operational Waste Water Treatment Works, and mineral workings within the Green Belt and to ensure proposals minimise the impact of the development on the openness of the Green Belt particular regard will be had to the following factors: the size, scale, volume, height, massing, position, lighting and any proposed enclosures of the proposals; or screen banks ..... All proposals for development should satisfy other relevant policies of the Local Plan and National Guidance.*”

Having regard to the above, the proposed development constitutes an engineering operation which includes the importation of waste to re-profile the land in order to achieve levels which are commensurate with those required to extend the existing golf course. Accordingly, as an engineering operation the proposals can be viewed as appropriate development subject to the works preserving the openness of the Green Belt and not conflicting with the purposes of including land within the Green Belt.

Turning to the effect on the openness of the Green Belt, the preliminary landscape review gives more detailed consideration to these matters and states that the western area, which is to be raised by up to 4m is not visible from outside of the site. The only buildings visible are about 5Km away and the Trans Pennine Trail is generally screened by vegetation. At these distances, the change will not be noticeable. The remainder of the area north of the driving range, to be raised between 1.1m and 1.8m, would be visible to the houses along the southern edge of Bolton, but the existing woodland on the northern slope screens the site well.

Taking this into consideration, together with the fact that the existing levels were altered during the previous development and the re-profiled land levels will be planted, it is

considered that the proposed development would not affect the openness of the Green Belt.

With regard to the purposes of including land within the Green Belt, these are set out within paragraph 134 of the NPPF and are listed below:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

As previously reported, the proposals are for the re-profiling of land to create an extension to the existing golf course. Accordingly, the development would not prejudice any of these objectives.

It is therefore concluded that the engineering works proposed as part of the development satisfies the purposes as set out within NPPF paragraph 134 and thus can be considered as appropriate development in the context of NPPF Green Belt policy.

Notwithstanding the above, and since the proposed development seeks permission for the importation of waste to re-engineer the golf course, consideration needs to be given to the policies in the Barnsley, Doncaster and Rotherham Joint Waste Plan.

Policy WCS4 *'Waste Management Proposals on Non Allocated Sites'* states that *"Proposals for waste development on non-allocated sites will be permitted provided they demonstrate how they:*

- 1. do not significantly adversely affect the character or amenity of the site or surrounding area;*
- 2. contribute towards the aims of sustainable waste management in line with the waste hierarchy;*
- 3. do not undermine the provision of waste development on strategic sites set out under policy WCS3;*
- 4. prioritise the reuse of vacant or underused brownfield land, where possible; and*
- 5. facilitate quicker and better quality reclamation, and do not prevent the timely reclamation of the site (where applicable).*

*B. Subject to meeting these criteria, the types of location where waste proposals may be acceptable in principle include:*

- 1) existing waste transfer recycling, composting, treatment and recovery sites;*
- 2) designated employment and industrial areas/sites;*
- 3) agricultural buildings;*
- 4) waste water treatment and sewage works;*
- 5) active mineral workings (including collieries); and*
- 6) landfill sites."*

Additionally Policy WCS6 *'General considerations for all waste management proposals'* states that *"Proposals for waste development will only be permitted within Barnsley, Doncaster and Rotherham provided they can demonstrate how" they... meet relevant criteria.*

With regard to Policy WCS4, the Applicant has stated that strictly speaking the use of fill to create a cap over the colliery spoil is a product as the material has been processed to end of waste specification in the yard in Barnsley to produce a soil substitute and fill for the work. It has gone through a process under an environmental permit at Oaks Lane Site so waste would not be imported to the site.

Nevertheless, the proposals are assessed against the criteria outlined in Policy WCS4 in the preceding paragraphs.

1. In the first instance, it is considered that the proposal will not significantly adversely affect the character or amenity of the area as the proposed extension for a golf course is surrounded by woodland and cannot be seen from the surrounding area. The proposal to landscape the area for the golf course and cap off the colliery spoil underlying the vegetation has been assessed by the Landscape Architect advising the Applicant and there are no issues that affect the openness of the area. The traffic movements associated with the development whilst engineering fill is being imported to construct the course are 1700 loads and material will be brought onto site as it is processed at Oaks Lane in Barnsley. It is estimated that there will be on average up to 800 tonnes per day brought to the site to be tipped and laid down before being compacted. It is programmed to bring 2,100 m<sup>3</sup> per month which equates to 10 HGV movements in and 10 out per day or one every 20 minutes if spread throughout the day. In operational terms it is likely 10 loads would be delivered in the morning and the plant on site would then move the material around and lay it out over the rest of the day.
2. The proposals contributes to the aims of sustainable waste management in that the waste from construction, demolition and excavation contracts whilst building houses, industrial units, transport hubs, installing utilities or other general construction projects in the Barnsley- Doncaster - Rotherham area is processed to meet specifications for soil substitutes and aggregates under the WRAP Protocol and recycles all the inert waste for a beneficial use.
3. The proposal will not undermine the provision of waste development on strategic sites as set out in policy WCS 3 as these sites are to manage commercial, municipal and industrial waste. It is unusual for sites such as these to handle inert waste from construction projects as the material is dealt with at a lower gate price and requires simple off the shelf equipment that is used in the quarrying industry to separate and process the inert waste into soil, fill material and secondary aggregates.
4. The proposal is to improve the potential for previously used brownfield land to part of the golf course to provide facilities for beginners and children.
5. It will facilitate the better restoration of the former colliery silt lagoons and tip which has been reclaimed but not restored to modern standards. The use of engineering fill and soil will provide a better quality restoration as there will be a good thickness of soil over the site and it will be reclaimed in a timely manner.

Having regard to the above, it is considered that the proposed development meets the 5 criteria outlined in the policy and as the proposals are located on a former colliery site, meets the requirements of criterion B.

To summarise and taking all of the above into consideration it is concluded that the proposals meet the requirements of the reported Green Belt Policies together with the policies in the Barnsley, Doncaster and Rotherham Joint Waste Plan. Accordingly, the proposed development is considered to be acceptable in principle.

### Assessment of Visual and Landscape Impacts

Policies CS21 Landscape, SP32 Green Infrastructure and Landscape and SP33 Conserving and Enhancing the Natural Environment essentially seek to protect and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes.

In assessing the proposals, it is clear that the development would have some temporary visual impacts which would occur due to the disturbance of existing areas of grass and the importation of materials. These works would be undertaken over a period of up to 3 years and would be phased to minimise the amount of affected land. Following the completion of the works the site would be reclaimed for cut grass, semi improved grassland and woodland with adequate falls on the land to assist in surface water run-off. The design of the course will not affect the belt of woodland on the western side or the arrow head to the east other than forming a fairway through the woodland. It further aims to retain features of ecological interest and restore the remainder to conditions suitable for habitat off the fairway in the rough whilst incorporating features of benefit for wildlife.

Although parts of the re-contoured site would have elevated ground levels, these changes would be carried out on a gently sloping site and would blend into the varied topography of the golf course and wider surrounding area. Once the site is re-seeded and landscaped the visual impact from the changes to the ground level would be negligible although the additional landscaping would have some beneficial visual effects.

With regard to the effect on the landscape it is acknowledged that there would be a slight change to the landscape character for the duration of the construction works however following completion of the development the site would continue in use as a golf course and therefore landscape effects would be neutral.

The re-planting scheme has been considered by the Council's Landscape department who welcome the retention of the existing established perimeter vegetation on the perimeter of the existing driving range and the implementation of the proposed landscape scheme which includes the planting of a woodland or scrub planting to the south and the provision of grassland and wildflower seeding at various intervals throughout the site.

Accordingly, it is considered that an adequate re-planting scheme has been provided to mitigate against the loss of any existing planting. As such, the proposed development satisfies the requirements of Policies CS21 Landscape, SP32 Green Infrastructure and Landscape and SP33 Conserving and Enhancing the Natural Environment.

### Ecological Considerations

In assessing these issues, Policy CS20 'Biodiversity and Geodiversity,' notes in part, that: *"The Council will conserve and enhance Rotherham's natural environment and that resources will be protected with priority being given to (amongst others) conserving and enhancing populations of protected and identified priority species by protecting them from harm and disturbance and by promoting recovery of such species populations to meet national and local targets."*

Policy SP33 'Conserving and Enhancing the Natural Environment' states, in part, that: *"Development should conserve and enhance existing and create new features of biodiversity and geodiversity value,"* and adds that: *"Development will be expected to enhance biodiversity and geodiversity on-site with the aim of contributing to wider biodiversity and geodiversity delivery including, where appropriate, direct contribution to Ecological Networks, the Green Infrastructure network, Biodiversity Opportunity Areas, Nature Improvement Areas and Living Landscapes."*

Policy SP34 'Sites Protected for Nature Conservation' states that *"Development or changes of use on land within or outside a statutorily protected site (either individually or in combination with other developments) which would adversely affect the notified special interest features, fabric or setting of the statutorily protected site will not be permitted."*

*Development that would either directly or indirectly, adversely affect a non-statutorily protected site will not normally be permitted. An exception should only be made where the need for the development in that location outweighs both the impact on the site's intrinsic interest and any broader impacts on the national network of protected sites, and that adequate mitigation and / or compensation measures can be delivered.*

*Before any development or land use change that may affect a protected site is commenced any measures considered necessary to mitigate or compensate for any harm to the site or its features of interest must be agreed and put in place."*

Policy SP35 'Protected and Priority Species' states that *"Planning permission for development likely to have a direct or indirect adverse impact on the following will only be granted if they can demonstrate that there are no alternative sites with less or no harmful impacts that could be developed and that mitigation and / or compensation measures can be put in place that enable the status of the species to be conserved or enhanced:*

- a. Protected species;*
- b. Species of principal importance for the conservation of biodiversity;*
- c. Species prioritised for action within the Rotherham Biodiversity Action Plan;*
- d. Populations of species associated with statutorily protected sites. Measures to mitigate and, or compensate for, any impact must be agreed prior to development commencing and should be in place by the time development is brought into use".*

The NPPF further advises in part of paragraph 170 that: *"Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other things):*

- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"*

The application is accompanied by a phase 1 habitat survey which confirms that there are pockets of deciduous woodland on the eastern most point of the site and on the western edge down to the stream that runs through the middle of the golf course and connects the boating lake with the River Dearne.

The report confirms that the site is unlikely to contain any Great Crested Newts (GCN) as there are natural barriers to the site from potential habitat for them in the small ponds to the south of Dearne Road. The nature reserve ponds are full of fish and pike have been seen in the stream to the south of the site from the boating lake to Wrens Gardens where the bridge goes over the stream. The River Dearne will act as a barrier to GCN coming from the nature reserve if they can co-exist with the fish and other predators at Old Moor Lakes.

There is no evidence of badgers within the site and again the water courses are likely to act as a barrier to animals extending their foraging habitat. A number of snuffle holes were found on the northern side of the river.

Willow tit were seen on the site during the walkover and the woodland can be a foraging area for the bird which is resident at the Old Moor Lakes. Loss of these small patches of woodland could impact upon this species. It is the applicant's intention however to retain the trees on the eastern most triangle and have a single fairway through the woodland around the edge of the bund for the driving range. The tree belt to the west will also be retained with a fairway through the woodland to the western semi improved grassland with the woodland being in a valley running along the line of the woodland.

The site is suitable for foraging birds due to the rank grassland and the patches of woodland and self-generated scrub. Most of the trees can be removed and replanted that are within the proposed golf course and the tree belts can be retained and a valley feature made around the woodland belt on the western side of the application area.

Overall, the report concludes that the site is not of any ecological importance other than as a foraging habitat for birds and bats that use the woodland perimeter for seeking prey. The course will be designed to minimise the loss of woodland identified in the ecological report. The rank grass and soil will be lifted to protect that seed bank and re-laid after the engineered fill has been placed and the course profiled for the fairways and tees.

The Council's Ecologist has considered the information provided in the Preliminary Ecological Appraisal and generally concurs with the findings. Concerns are raised however regarding the future use of the site as a golf course as it is known that they are heavy users of fertilisers, herbicides and pesticides and these can find their way into adjacent watercourses and ponds. Fertilisers can lead to nutrient enrichment resulting in the growth of algae, dense cover of duckweed, dense growth of willow herb, nettle and other vegetation on banksides Whilst insecticides can have a lethal impact on terrestrial and aquatic invertebrate life.

Accordingly, it is recommended that conditions are imposed requiring the planting of reedbeds, buffer strips, and other measures to protect the River Dearne and adjacent drains and ponds. Furthermore, it is recommended that the development is carried out in accordance with the recommendations set out in the Ecological Impact Assessment.

### Amenity Issues

Having regard to amenity issues, it is envisaged that the proposed importation of material and associated vehicular movements has the potential to cause an increase in noise and dust emanating from the site.

In considering these issues, 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."*

The nearest residential properties to the site boundary are to the north east in Bolton on Dearne on South Drive which is 150 metres away from the northern most boundary of the site and Broomhill View is 230m northeast of the site.

The applicant in their supporting statement have considered the impact for the potential for dust as a result of the proposed works and have concluded that "*The nuisance associated with general dust deposition is unlikely to be significant as dust particles greater than 30µm, which are responsible for most dust annoyance from this type of work will typically deposit within 100m from the source. The proportion of fine and ultrafine particles (10µm or smaller) in the material accepted at this site is unlikely as the fines are all clay and below 63 micron within a mixture of stone and soil from 5 mm down to clay size based on particle size analysis for recovered inert waste. 10 micron dust particles are unlikely to be produced from the project.*"

Having regard to the potential for increased noise as a result of the proposed works, it is noted that the operation will take place within the existing golf course on the field to the east of the current golf course and north east of the club house. The Applicant has stated that the noise of machinery working on site will be most noticeable when site operations are carried out in the northeast area of course, when final levels are being achieved and during site restoration works involving soil spreading.

The Council's Environmental Health department have been consulted on the proposals and generally concur with the information contained within the supporting statement. They do not consider that the proposals will have a negative impact on residential amenity subject to the implementation of best working practices, which include

restrictions on hours of operation, use of water bowsers to minimise dust and use of wheel wash facilities to prevent the deposition of mud onto the highway.

Accordingly, it is considered that the proposed development will not have a detrimental impact on the amenity of the local area and as such complies with the requirements of Policy SP52 'Pollution Control'.

#### Land Contamination

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

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

The application is accompanied by a Phase I and Phase II Contamination Site Investigation and a supporting Planning Statement. It is acknowledged that the site covers an area previously occupied by the former Manvers Main Colliery and Coking Works, and other associated facilities and chemical works,

The application site itself was open field until 1962 when it became encompassed by the Manvers colliery spoil tip with associated ponds/silt lagoons. By 1988 the tipping of colliery spoil ceased and the entire Colliery Site was reclaimed during 2007. The silt lagoons/ponds were all infilled during this time. The site has been backfilled with made ground comprising of shale, mudstone and coal fines in a matrix of colliery spoil and has been restored to provide a domed platform with woodland on the slopes. The site is currently flat lying, falling away to the boundaries of the site where the woodland is.

The site has been reclaimed as part of the overall restoration of the coal mining legacy on this site, but the colliery spoil contains residual contamination across the site. To confirm this is, a limited Phase 2 Contamination Audit Assessment was undertaken to obtain a further understanding of the ground conditions. Just two samples of soil were collected from shallow depth (one in the centre of the site and one at the edge) to assess contamination levels. Elevated concentrations of arsenic, lead, zinc, ash, TPH and PAH were determined when compared with governmental guideline values for a Public Open Space.

In this regard it is considered that insufficient site investigations have been undertaken to adequately confirm that the site is fit for use and will not impact on human health from playing golf on the former colliery spoil site. However, remediation works have been proposed for the site which will comprise capping the entire colliery spoil with 500mm of a clay substitute, overlaid by 500mm of gritty soil to create a sub base and then to overlay this with a layer of subsoil (0.3m depth) and topsoil (0 – 0.15m). As a result the

capping works will break the exposure pathway of contamination coming into contact with human health.

It is reported that all surface vegetation and soil is to be stripped off and stockpiled for later re-use on site. Importation of 25,000m<sup>3</sup> of recovered engineering material will then be brought to site to provide soils for the golf course to create an anti-clockwise route around the eastern end of the golf course site. Topsoil is also reported to be required to be imported to site for trees and green areas.

It is proposed that materials will be imported over a 3 year period and therefore an appropriate permit/testing regime will need to be in place prior to works commencing on site. In addition to this the materials created from the vegetation/topsoil strip will also need to be tested to ensure that they are suitable for use if placed on the surface of the proposed golf course. An earthworks specification/plan also needs to be provided confirming the exact works to be undertaken across the entire site.

In summary, sampling confirms that the made ground does contain compounds that are commonly associated with coal mining and colliery spoil that are present at the surface and at 0.4mbgl and most likely beyond. The proposed development is unlikely to introduce any further contaminants when the golf course is constructed and the capping layer to be provided should break the exposure pathway from the contaminants coming into contact with the future users of the site, however it is considered that further information is required prior to commencement of works which can be secured via appropriately worded conditions.

### Transportation Issues

In assessing highway related matters 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 109: "*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."*

In terms of the proposed routing for HGV's, the Applicant has confirmed that the access route to the site for vehicles taking materials to the golf course will be on the relief roads from Stairfoot to Wath and on Dearne Road to the access into the golf course. The road is the A633 from Stairfoot to Dearne Road.

It is envisaged that there will be as maximum of 40 vehicular movements per day (20 in 20 out) required for the scheme. This will allow the applicant a degree of flexibility dependant on the availability of suitable restoration materials which may not be consistently available throughout the year from the processing centre in Barnsley due to weather conditions, construction activity etc.

The access to the area is via the existing gated road for the golf club which is wide enough for HGV's to enter the site and does not conflict with present users of the golf course. The inert material will be transported to the site via this access for the duration of the scheme and the field area will be progressively filled in.

The Council's Transportation Infrastructure Service have reviewed the submitted information and on the basis of a maximum of 40 HGV movements per day no objections are raised from a highway aspect subject to appropriate measures being implemented to prevent/deal with mud deposited in the highway and access road.

Accordingly, it is considered that the proposed development accords with the provisions of Policy SP26 'Sustainable Transport for development' and relevant paragraphs in the NPPF.

#### Flood Risk and Surface Water 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.”*

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

*“The Council will expect proposals to:*

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

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

According to the Environment Agency’s (EA) current Flood Map for Planning, the site lies predominantly in flood zone 2, with areas of flood zone 3 running along the north, east and west edges of the red line plan. However, as highlighted in the Applicant’s submitted documentation which includes a copy of an email exchange with the EA’s Data and Evidence Team, they are satisfied that this is no longer an accurate reflection of the flood risk on this part of the site. As a result, the majority of the site is now in flood zone 1 and the EA are satisfied that the proposed development meets the requirements of the National Planning Policy Framework and raise no objection to the development on flood risk grounds.

The Council’s Drainage Engineer concurs with the EA’s response; however originally raised a concern regarding the raising of the site levels close to the western boundary which is adjacent to the existing watercourse. In response to this, the Applicant provided a cross section through this area to include the watercourse. Upon receipt of this information, all concerns have been satisfied and as such no objections are raised to the proposed works subject to access being retained to the watercourse for maintenance purposes.

On this basis, the proposed development is considered to accord with the provisions of Policy CS24’ Conserving and Enhancing the Water Environment’, Policy CS25 “Dealing with Flood Risk’ and relevant paragraphs in the NPPF.

## **Conclusion**

The proposed importation of material onto this site meets the requirements of Local Plan Green Belt Policies together with the policies in the Barnsley, Doncaster and Rotherham Joint Waste Plan. Accordingly, the proposed development is considered to be acceptable in principle.

The re-profiling of the site to create an extension to the golf course will not have an adverse impact on the landscape character of the area, nor will harm local wildlife or habitats. The impact on residential amenity will be minimal due to the proximity of nearby residential properties and the vehicular movements associated with the works will not have an adverse impact on the local highway network.

Accordingly, the application is recommended for approval subject to the following conditions.

### **Conditions**

01

The development hereby permitted shall be completed by the 31st December 2022.

Reason

To enable restoration of the site to a beneficial after use within a reasonable period, in accordance with Policy CS26 'Minerals'.

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)

- Sections A and B – Dwg No. WGC/527/04 Rev A
- Sections D, E and F – Dwg No. WGC/527/12
- Location of Sections – Dwg No. WGC/13
- Proposed Ground Levels Design – Dwg No. J/WF/02
- Existing Ground Level Survey – Dwg No. J/WF/01A
- Figure 1 Waterfront OGL 191018
- Details For Rough Grass And Woodland Planting – Dwg No. WGC2527/11
- Tree Protection Plan – Dwg No. WGC/527/07 rev B

Reason

To define the permission and for the avoidance of doubt.

### **Highways**

03

Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the details contained within this document.

Reason

In order to ensure the development does not give rise to problems on the public highway, in the interests of road safety

04

Effective steps shall 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.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy CS26 'Minerals'.

05

All vehicles entering the site importing waste materials or leaving the site with mineral materials shall be securely and effectively sheeted.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy CS26 'Minerals'.

#### Land Contamination

06

Prior to the commencement of development, a detailed earthworks/materials management plan confirming the specification for engineering works shall be submitted to and approved in writing by the Local Planning Authority, to ensure that any geotechnical and contamination risks will be managed appropriately. The development shall thereafter be carried out in accordance with the approved details.

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.

07

Prior to the commencement of development and in the absence of an Environmental Permit being required for all materials to be imported to site, soils shall be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of testing thereafter shall be presented to the Local Planning Authority in the format of a Validation Report.

Reason

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

08

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 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.

09

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

10

Suitable water supply (barrier) pipes shall be specified and approved in writing by the Local Planning Authority to ensure resistance from chemical attack from residual contaminants remaining in the made ground should they be required in areas at the site. PE, PVC and Wrapped Steel pipes have been identified as being unsuitable for the site.

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.

Ecology & Landscape

11

The development hereby approved shall be carried out in accordance with the Mitigation Measures and Enhancements outlined at Paragraphs 6.2.4, 6.2.5, 6.2.8, 6.2.6, 6.2.10, 6.2.11 & 6.2.12 of the Ecological Impact Assessment dated 13<sup>th</sup> June 2013.

Reason

In the interest of biodiversity at the site in accordance with Policies in the NPPF.

12

Landscaping of the site as shown on the approved plan CR Landscape (drawing no. WGC 2527/11) shall be carried out during the first available planting season after completion of the contours hereby approved.. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

#### Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Policy CS21 Landscape.

#### Informatives

01

The proposed development lies within 250m of the Wath Colliery landfill, a former landfill site that accepted waste types including bacteriological sludge, lime sludge and bio-treatment sludge. According to our records, the site had ceased accepting waste no later than 1983, but given the nature of wastes accepted there remains the potential for the site to generate landfill gas. Given the nature of the development, which includes no buildings or other enclosed spaces, and which is separated from the historic landfill by the River Dearne, the risk to the development from landfill gas is minimal, but the developer may wish to carry out, or End 2 the planning authority may wish to require, a risk assessment to identify and address any such risk.

02

It is not possible to determine from the information provided whether or not the development will require an Environmental Permit. The Planning Statement dated August 2018, in Paragraph 1.2, states that only materials meeting specification 6F2 for earthworks will be imported to the site, and paragraph 1.6 of the Phase 1 and Phase 2 Contamination Audit dated March 2019 states that the material used will be a product recovered by the recycling of waste.

However, Paragraph 1.3 of the Planning Statement says that the imported material consists of inert waste, and Paragraph 1.6 states that the use of the material may need to be regulated by an Environmental Permit.

The developer should clarify the status of the material to be imported for use in the development. If all of the imported materials satisfy the criteria for end-of-waste status (such as by meeting the aforementioned 6F2 specification for earthwork materials) then the development will not require an Environmental Permit. The developer has a legal Duty of Care to satisfy itself that the materials used are not waste, and the planning authority may wish to satisfy itself that the developer is discharging this responsibility.

If, on the other hand, any of the materials used fail to meet end-of-waste criteria (and are not virgin products), then they are waste materials and their processing or use on the developer's site will require an Environmental Permit under the Environmental Permitting Regulations (England and Wales) 2010. In this event we would not be able to issue a permit until a Waste Recovery Plan has been provided to us for assessment. Further guidance can be found on our website at <https://www.gov.uk/topic/environmental-management/environmental-permits>.

Environmental Health

03

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.

04

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).

05

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

06

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.

07

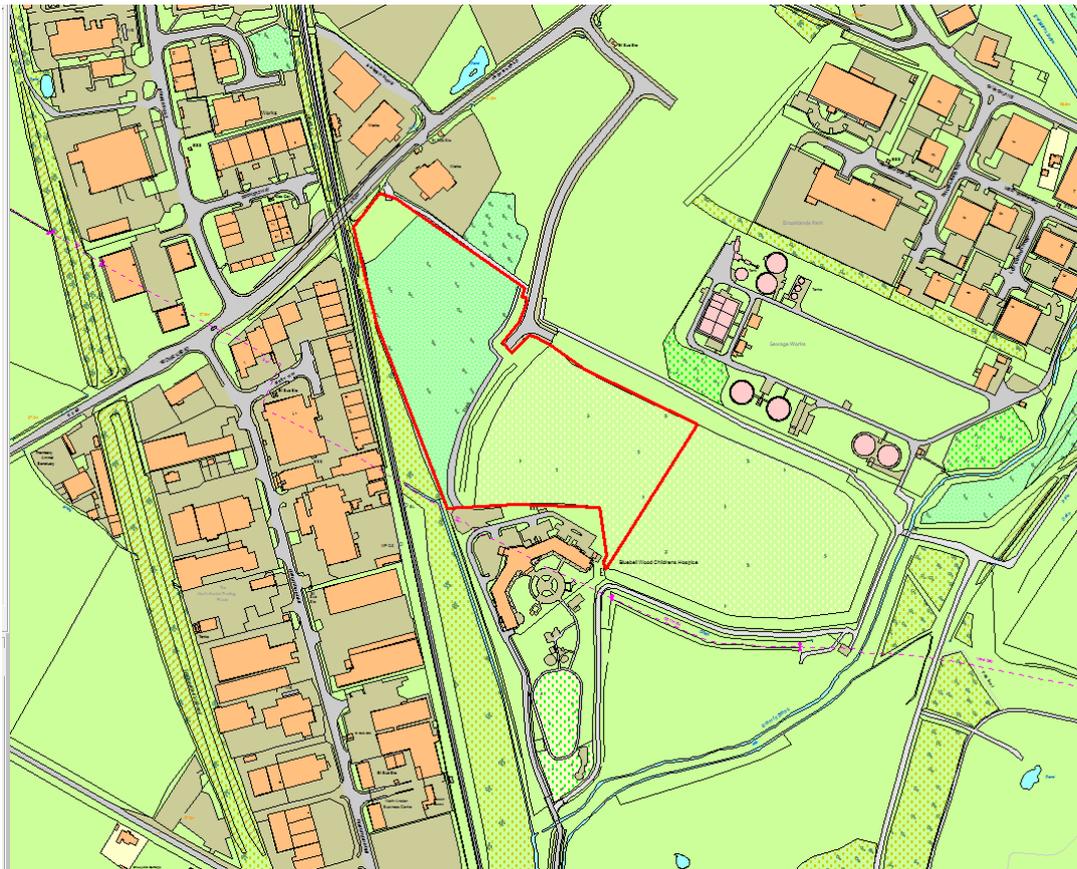
There shall be no burning of any waste items including green waste on the application site at any time. The disposal of refuse by burning is an offence unless carried on under, and in accordance with, a waste management licence issued by the Environment Agency. All waste shall be removed by a licensed carrier and the relevant paperwork sought and retained. This is a legal requirement. If you are permitted to have bonfires, you must ensure that any smoke produced does not cause a nuisance to neighbours. If a nuisance is witnessed, or if it is likely to occur, then Neighbourhood Enforcement would be required to serve an Abatement Notice upon you, prohibiting any further smoke nuisance. Failure to comply with an Abatement Notice without reasonable excuse is an offence.

**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 submit this additional information so that it was in accordance with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2019/0737</b>
<b>Proposal and Location</b>	Formation of surface water retention basin and associated outfall, 2.4m high paladin fence, and earthworks to form level platforms for future development, at land at Todwick Road, Dinnington
<b>Recommendation</b>	<b>Grant Conditionally</b>

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



### Site Description & Location

The site is approximately 5 hectares in area and is currently vacant of mostly grassed scrubland, but forms part of the wider former Dinnington Colliery site and is part of the wider employment site know as East 31 (part of which is being built out).

The site is accessed from Todwick Road to the north-west along a recently constructed industrial estate road.

The site is bounded by a public footpath to the north-west between the site and the adjacent Sewage Works, there is grassed scrubland to the north and east, Bluebell Wood Hospice to the south and a railway line to the west. The site is relatively flat and lies around 100 m AOD.

A Severn Trent foul sewer runs across the site, pumping foul waste from the south to the existing sewage treatment works to the north east of the site.

## **Background**

There have been numerous planning applications submitted relating to this site and the wider employment site, the most relevant of which are:

RB2002/1516 - Reclamation and restoration of former colliery site to a form suitable for future employment, amenity and recreation uses – Granted Conditionally 31/03/03

RB2002/1696 - Layout of roads and sewers to facilitate development of land for Class A2 (Financial and Professional Services), B1 (Business), B2 (General Industrial), B8 (Storage and Distribution), C1 (Hotels), D1 (Non-residential Institutions) & D2 (Assembly and Leisure) purposes, and use of land for amenity open space and willow coppicing – Granted Conditionally 02/07/04

RB2004/1346 - Outline planning permission for mixed use development of the former colliery site including the following use classes B1 Use (excluding offices) B2 General Industry and B8 Storage and Distribution – Granted Conditionally 01/04/05

RB2008/1562 – Formation of new access road – Granted Conditionally 20/11/08

RB2018/0909 – Erection of 7 No buildings for use classes B1 (b&c), B2 and B8 with associated service yard, car parking, boundary fencing and substations – Granted Conditionally 07/12/18 (on adjacent land to the north).

RB2018/1683 - Erection of industrial unit (use class B2) with ancillary warehouse, office building and boundary fencing (United Caps)– Granted Conditionally – 05/04/2019 (on land to the east)

## EIA Screening

The proposed development falls within the description contained at Paragraph 10 (a) of Schedule 2 of the Town and Country Planning (Environment Impact Assessment) (England and Wales) Regulations 2017 and meets the criteria set out in column 2 of the table in Schedule 2 i.e. the site area exceeds 0.5ha. However, the Borough Council as the relevant Local Planning Authority has taken into account the criteria set out in Schedule 3 to the Regulations and it is considered that the development would not be likely to have a significant effect on the environment by virtue of factors such as its nature, size and location.

Accordingly, it is the Local Planning Authority's opinion, that the proposed development is not 'EIA development' within the meaning of the 2017 Regulations.

## **Proposal**

The proposed development comprises the construction of a surface water retention basis and earthworks to create building plateaus for future light industrial buildings.

The surface water retention basin is to provide the volume of storage required to retain surface water run-off from the applicant's adjacent development, granted planning permission under RB2018/0909 (as amended by RB2019/0625) which were for the building of 7 industrial buildings off the recently constructed access road.

As part of the works, the majority of the remainder of the site is to be stripped of vegetation and earthworks carried out to remodel levels to provide level plateau areas in preparation for the construction of four light industrial type buildings (application to be submitted in due course).

The retention basin will be sized to allow surface water run-off from this future development to be stored as well.

The area of the retention basin and surrounding embankments will be approximately 5,200 sq. metres. The area to be stripped and remodelled is approximately 36,500 sq. metres. The remaining area, approximately 8,300 sq. metres, will be unaffected.

The retention basin is to be located close to the southern boundary, adjacent to Bluebell Wood Hospice car park and service area. It will be approximately 2.7 metres deep and will be detailed to allow 100mm depth of water to be retained at the base. Side slopes will be formed at a gradient of 1 in 3 and a 2 metre wide gravel path is to be provided to the perimeter. New embankments will be formed as necessary to return to surrounding ground levels at gradients of 1 in 3 in cut areas and 1 in 6 in fill areas. Proposed remodelling of ground levels is minimised to follow the general topography of the site.

The retention basin is to be lined with topsoil and seeded with grass upon completion and will have a paladin perimeter fence with gated access at 2.4 metres high to match the adjacent development consented under RB2019/0909.

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

### Design and Access Statement

The statement provides details on the proposed development in respect of scale, layout, landscaping and access.

### Flood Risk Assessment

The Flood Risk Assessment has been prepared in accordance with current National Planning Policy Framework and Planning Practice Guidance "Flood Risk and Coastal Change."

It concludes that the site is within Flood Zone 1 and is not at significant risk of flooding from any source and the level of risk and safeguards available are considered appropriate to this class of development.

### Phase 2 Geo Report

The objective of this assessment was to identify potential geotechnical and geo-environmental constraints associated with the proposed development of the site for such a commercial/industrial end use.

The assessment looks at ground conditions, geotechnical results, geotechnical assessment, ground gas assessment and conceptual site model. The assessment provides a number of conclusions and recommendations.

### Ecological Impact Assessment

The EclA report aims to:

- Compile all survey information to establish the baseline ecological condition of the site.
- Identify any likely significant effects of the proposed scheme in the absence of mitigation.
- Propose any ecological mitigation measures to avoid any likely significant effects and identify residual impacts.
- Identify any compensation measures required to offset residual impacts.
- Propose potential ecological enhancement measures that could be provided by the development.
- Confirm how proposed mitigation, compensation and enhancement measures will be secured.
- Confirm whether the proposed scheme complies with nature conservation legislation and policy, allowing conditions to be proposed by the planning authority.

The report concludes that the proposed scheme is not predicted to result in any adverse significant effects, however risk of legal infringement under nature conservation legislation is possible. Furthermore, with the implementation of the mitigation enhancement measures it would adhere to all relevant nature conservation legislation.

### Coal Mining Risk Assessment

The Coal Mining Risk Assessment has been informed by an extensive range of evidence, including the results of previous site investigations undertaken within the wider site.

The report identifies that although a coal seam is likely to outcrop across the site, evidence has proved that this is unlikely to have been worked. The report considers that the risk of ground instability associated with possible former coal mining on the proposed development is low.

### Construction Noise Survey

The purpose of the report is to outline the environmental noise impact of the proposed works during the construction phase on the nearby noise sensitive Bluebell Wood Hospice.

The assessment of the noise impact of the proposed construction activities indicates a potential adverse impact on the Bluebell Wood Hospice when works are taking place in the area closest to the Hospice boundary to create the retention basin. For the remainder of the works the risk of an adverse impact is substantially lower as the plant would be operating further away.

General best practice noise mitigation measures have been outlined, and limited hours of operation have been proposed.

## **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 Industrial and Business purposes in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS19 'Green Infrastructure'  
CS20 'Biodiversity and Geodiversity'  
CS21 'Landscape'  
CS24 'Conserving and Enhancing the Water Environment'  
CS25 'Dealing with Flood Risk'  
CS27 'Community Health and Safety'  
CS28 'Sustainable Design'  
SP16 'Land Identified for Industrial and Business Uses'  
SP33 'Conserving and Enhancing the Natural Environment'  
SP47 'Understanding and Managing Flood Risk and Drainage'  
SP52 'Pollution Control'  
SP55 'Design Principles'

## **Other Material Considerations**

National Planning Practice Guidance (NPPG).

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.

## **Publicity**

The application has been advertised by way of press, and site notice along with individual neighbour notification letters to adjacent properties. No letters of representation have been received.

## **Consultations**

RMBC – Transportation Infrastructure Service: Have no objections.

RMBC – Drainage: No objections subject to conditions.

RMBC – Environmental Health: No objections subject to conditions.

RMBC – Ecology: Have no objections

RMBC – Trees and Woodlands Service: Have no objections.

RMBC – Landscapes: Have no objections subject to conditions.

The Coal Authority: No objections.

Yorkshire Water: No objections subject to conditions.

Network Rail: No objections subject to conditions and informatives.

The Environment Agency: Have no objections.

### **Appraisal**

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

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

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

The main considerations in the determination of the application are:

- Principle of the development
- Visual impact of the proposed works
- Impact upon neighbouring amenity
- Drainage considerations
- Ecological considerations
- Other considerations

#### Principle of the development

The site is allocated for Industrial and Business purposes within the adopted Local Plan. Policy SP16 'Land Identified for Industrial and Business Uses' states development falling within Use Classes B1b and B1c, B2 and B8 will be permitted.

The proposed works consist of engineering operations to support the facilitation of industrial development on the site, and facilitate drainage for the site and adjacent land that is to be developed for industrial purposes. As such the proposed works are considered acceptable in principle.

#### Visual impact of the proposed works

With regard to design issues regard will be had to paragraphs 124 and 127 of the NPPF, which are supported by Local Plan policies CS28 'Sustainable Design' and

SP55 'Design Principles', which requires the creation of high quality buildings and places in order to create better places in which to live and work, with developments that are visually attractive and sympathetic to the character and appearance of the area.

The size, scale and design of the proposed works are appropriate for the site and its future development. Furthermore, given the nature of the works proposed the basin will have minimal visual impact.

It is considered that the scheme would not affect the character and appearance of the area. Accordingly, the proposal will comply with the design requirements outlined in paragraphs 124 and 127 of the NPPF, and Local Plan policies CS28 'Sustainable Design' and SP55 'Design Principles'.

#### Impact upon neighbouring amenity

With regard to amenity impact regard will be had to paragraph 124 of the NPPF and Local Plan policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

The main impact on neighbouring amenity will be during the construction phase. The site is adjacent Bluebell Wood Hospice which is a sensitive receptor. The stripping of vegetation, excavation works and profiling of the basin will increase the noise and dust emissions which are likely to affect nearby receptors. Accordingly, there is potential disamenity from noise and dust from the construction phase and to try and mitigate this impact a Noise Construction Report has been submitted.

The report indicates a potential adverse impact on the Bluebell Wood Hospice when works are taking place in the area closest to the Hospice boundary to create the retention basin. For the remainder of the works the risk of an adverse impact is substantially lower as the plant would be operating further away. It further states that general best practice noise mitigation measures outlined should be conditioned, and the limited hours of operation proposed should also be conditioned.

The Council's Environmental Health service have stated that they have no objections to the proposal subject to conditions relating to construction hours and to limit mud, dust and other materials from entering the public highway or affecting neighbouring properties; and that the site manager's details are made available to the Council and Bluebell Wood Hospice.

With regard to impact upon neighbouring amenity once constructed, the new basin will be recessed below land level of neighbouring properties, as such it will not harm neighbouring outlook or create any loss of light or appear overbearing.

Furthermore, whilst located in close proximity to Bluebell Wood Children's Hospice, the proposed basin will provide a buffer between the Hospice and the future development beyond, giving a distance from proposed buildings to the Hospice of at least 70 metres. In addition, the raised platforms would be further away from the Hospice than the basin and as such given the distance they will have little if any impact on the Hospice. Therefore, once constructed the proposed basin and platforms would raise no amenity issues.

It is considered that, whilst the construction works of the part of the basin closest to Bluebell Wood Hospice would have some impact on neighbouring amenity, the use of

general best practice noise mitigation measures and limitation of hours of operation, which can be secured by condition, would minimise the impact of the construction works, and as such the proposals would comply with Local Plan policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

### Drainage considerations

The site lies within Zone 1 on The Environment Agency's Flood Map and as such the site is not at significant risk of flooding from any source, and no sequential test is required in this instance. The scheme should have regard to the requirements of Local Plan policies CS24 'Conserving and Enhancing the Water Environment'; CS25 'Dealing with Flood Risk' and SP47 'Understanding and Managing Flood Risk and Drainage', as well as paragraphs 155 to 165 of the NPPF.

The retention basin is to be designed to store surface water discharge from the development plots, both those already approved and those subject to future approvals. The discharge will be attenuated to the 1 in 2 year Greenfield runoff rate of 5.6 litres/second/hectare. The permitted rate is estimated to be 39 litres/second.

The retention basin is to be designed to store runoff for all rainfall events up to and including the 1 in 100 year return period plus an allowance of 30% for climate change. An estimated 5,000 m<sup>3</sup> of storage will be required.

Surface water disposal from the retention basin will be via a newly formed outlet to the existing unnamed watercourse at the south west corner of the site, which ultimately converges with Cramfit Brook, 300m to the south of the site.

Surface water run-off from all car parks and service yards, both approved and subject to future approvals, will be passed through suitably sized Class 1 by-pass interceptors before entering the retention basin. Roof water will not pass through any interceptors.

The basin has been specifically designed to minimise flooding in the area and the Council's Drainage section consider that the works are acceptable to accommodate the expected level of surface water run off. Furthermore, no objections or issues have been raised from either the Environment Agency or Yorkshire Water, subject to conditions.

Accordingly, in light of the above it is considered that the proposed development would satisfy Local Plan policies CS24 'Conserving and Enhancing the Water Environment'; CS25 'Dealing with Flood Risk' and SP47 'Understanding and Managing Flood Risk and Drainage'.

### Ecological considerations

The site was formerly part of Dinnington Colliery until the site was cleared, levelled and seeded with a temporary meadow mix. The site is bounded by existing and future industrial developments to the north and east, a railway line embankment forms the western boundary with industrial developments beyond, the southern boundary adjoins Bluebell Wood Children's Hospice.

There are no sites with statutory protection within 1km of the site, a Local Nature Reserve is located 1.7km south of the site and Anston Stones Wood SSSI is located

2.6km to the south-east. There are three Local Wildlife Sites within 1km of the site, but all of these are separated from the site by residential and urban development.

There is potential for some ecological impact from the development affecting species and habitats that use the watercourse. Accordingly, the scheme will have regard to the requirements of local plan policies CS19 'Green Infrastructure', CS21 'Landscape', CS20 'Biodiversity and Geodiversity' and SP33 'Conserving and Enhancing the Natural Environment'.

The submitted Ecological Impact Assessment (EclA) concludes that before mitigation the proposed scheme is not predicted to result in any adverse significant effects, although risk of legal infringement under nature conservation legislation is possible. Therefore, the report has recommended a number of ecological enhancements which include:

- Provision of bat roosting and bird nesting boxes ideally integrated within proposed buildings.
- Tree and shrub planting to include native species of local provenance, native cultivars of wildlife value, and/or non- or near- native species of wildlife value in accordance with recognised good practice.
- Any proposed new external lighting for the development should be designed to ensure that lights are angled downward and that night light levels remain relatively low. A 'dark corridor' should be retained to the tree belt on the southern boundary to Bluebell Wood Children's Hospice.
- Provision of 1no. ACO Wildlife Refuge and 1 no. woodpile habitat.
- A buffer strip should remain in place/be planted to protect the ditch that runs near the south western boundary of the site ('Green Space' policy area).
- The pond on the western boundary should be retained and protected or a replacement pond should be provided as part of the development.

It is considered that with the implementation of some of the above mitigation and enhancement measures, the scheme is considered to adhere to all relevant nature conservation legislation. The requirements regarding provision of bat roosting and bird nesting boxes within buildings is not required as no buildings are proposed under this application, furthermore, no external lighting is proposed at this stage, as such these are not relevant to the current proposal and will not be included in any condition.

The Council's Ecologist has confirmed that subject to the recommended mitigation measures outlined above being secured through an appropriately worded condition the scheme would comply with Local Plan policies CS19 'Green Infrastructure', CS21 'Landscape', CS20 'Biodiversity and Geodiversity' and SP33 'Conserving and Enhancing the Natural Environment', as well as relevant provisions set out in the NPPF. As such the proposal would raise no ecological issues.

### Other considerations

In addition to the above the proposed works would take place in close proximity to a railway line. Network Rail have raised no objections to the proposed works subject to a number of conditions and informatives to ensure the works have no adverse impact on the protection of the railway.

## **Conclusion**

Having regard to the above it is concluded that subject to conditions the proposed works would raise no issues and would comply with the requirements of the relevant local planning policies and the provisions of the NPPF. Accordingly, the application is recommended for approval.

## **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 3, 6, 7, 10, 11, 12 and 13 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 numbers 3, 6, 7, 10, 11, 12 and 13 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)

43508/011 rev A, received 14 May 2019

43508/012 rev A, received 14 May 2019

43508/013 rev A, received 14 May 2019

43508/014 rev A, received 14 May 2019

43508/015 rev A, received 14 May 2019

Reason

To define the permission and for the avoidance of doubt.

## **Amenity**

03

Prior to the commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include:

- details of the proposed access to the site for all vehicles associated with the development on the application site;
  - traffic management measures during the construction work;
  - the location of the site compound and staff parking;
  - measures to deal with dust;
  - measures to deal with mud in the highway;
  - details of the quality of soil and its movement and temporary storage during construction details of proposed hours of deliveries to the site
  - all loaded lorries leaving the site shall be securely and effectively sheeted
  - site managers and site supervisors telephone contact details;
- and such further matters as the Local Planning Authority may consider necessary.

The approved measures shall be implemented throughout the construction period.

Reason

In the interests of highway safety and residential amenity.

04

Except in case of emergency, operations shall not take place on site other than between the hours of 08:00 - 17:00 Monday to Friday and between 09:00 - 13:00 on Saturdays. There shall 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.

Reason

In the interests of the amenity of the locality.

05

Heavy goods vehicles shall only enter or leave the site between the hours of 08:00 - 17:00 on weekdays and 09:00 - 13:00 Saturdays and no such movements shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

Reason

In the interests of the amenity of the locality.

Drainage

06

No construction works in the relevant area(s) of the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker is retained at all times.

Reason

In the interest of public health and maintaining the public water supply.

07

Construction of the retention basin and associated drainage shall not begin until a surface water drainage scheme for the site has been 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. The scheme to be submitted shall demonstrate:

- The limitation of surface water run-off to equivalent greenfield rates (i.e. maximum of 5 litres/second/Ha);
- 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.

Landscapes

08

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

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

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and in accordance with the appropriate standards and codes of practice 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.

Ecology

09

The development shall be carried out in accordance with the mitigation and ecological enhancement measures set out at section 5.0 of the submitted Ecological Impact Assessment (EclA) dated July 2019. Thereafter such approved measures shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

In order not to make adequate provision for species protected by the Wildlife & Countryside Act 1981.

Network Rail

10

Prior to the commencement of development hereby approved a Method Statement / Fail Safe / Possession Method statement shall be submitted to and approved in writing by the Local Planning Authority. This should include:

- Outline of the proposed method of construction; and
- Risk assessment in relation to the railway and construction traffic management plan.

The approved details shall be implemented prior to works commencing and shall be satisfied throughout the construction phase.

Reason

To ensure the safety, operational needs and integrity of the railway.

11

Prior to any excavations and earthworks near the railway undertaker's boundary fence, full details of excavations and earthworks to be carried out shall be submitted for the approval of the Local Planning Authority. The works shall only be carried out in accordance with the approved details.

Reason

To ensure the safety, operational needs and integrity of the railway.

Contaminated Land

12

Prior to development commencing an Intrusive Site Investigation shall be undertaken to confirm the contamination status and ground gassing regime across the site and to determine fully the geotechnical constraints that may be present at the site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced and submitted for approval by the Local Planning Authority. The approved details shall be implemented on site.

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

Reason

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

13

Prior to the commencement of the development hereby approved, and subject to condition 12 above, a Remediation Method Statement shall be submitted to and approved by the Local Planning Authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in accordance with the findings identified within the Phase II Intrusive Investigation Report and under a full quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of any remediation works.

Reason

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

14

If subsoils/topsoils are required to be imported to site for any phase of development for remedial works/areas of soft landscaping, then these soils will need to be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of testing will need to be presented in the format of a Validation Report to be submitted to and approved by the Local Planning Authority. The approved details shall be implemented in the development.

Reason

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

15

In the event that during development works unexpected significant contamination (including asbestos containing materials) is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in the development.

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

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

#### Reason

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

#### **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.

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

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

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

Furthermore, vegetation removal should be undertaken outside of the bird breeding season, March to September inclusive. If any clearance work is to be carried out within

this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

03

A 160mm water main runs through the carriageway with the development situated to either side of it. Whilst the pipe can remain in situ, no permanent structures should be built within 3 metres of its centre line and it may not be possible to alter ground levels over the pipe, either side of the centre line of the pipe. It is recommended that the developer contacts [tech\\_support.engineer\\_south@yorkshirewater.co.uk](mailto:tech_support.engineer_south@yorkshirewater.co.uk) to discuss the protection of the water main.

04

It should be noted that Network Rail have the following requirements that must be met:

#### Asset Protection

Given the nature of the scheme and close proximity of the proposed earthworks, it is imperative that the developer engage with our Asset Protection Team (details below) prior to work commencing on site to ensure that the proposed earthworks and their design and construction does not impact on operational railway safety.

#### Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

#### Excavations / Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

#### Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

#### OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works

to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

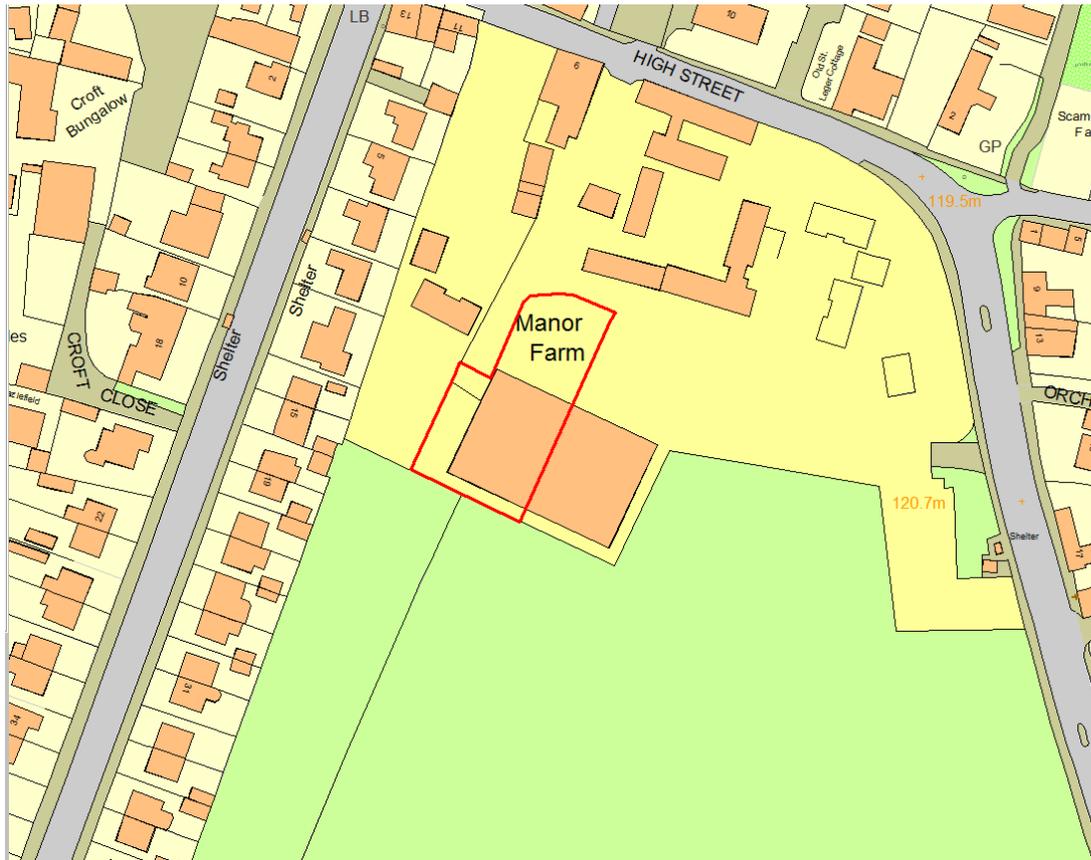
Network Rail is required to recover all reasonable costs associated with facilitating these works.

## POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2019/0804</b>
<b>Proposal and Location</b>	Change of use to 1 no. dwellinghouse (use class C3) with external alterations & associated access / works at Barn at South Paddock House, Turner Croft, off St John's Road, Laughton-en-le-Morthen
<b>Recommendation</b>	Grant subject to conditions

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



### Site Description & Location

The application site is located within the village of Laughton-en-le-Morthen. Part of the site (access road and front curtilage) falls within the Laughton-en-le-Morthen Conservation Area. The site comprises of a large barn which is attached to another barn that is not in the applicant's ownership. Access to the barn is via a new vehicular access off St John's Road that was part of a previous application for development within the Turner Croft complex.

To the north of the site within a former farm complex there are several former barns that have been converted to residential properties, one of which Manor Farm is a Grade II Listed building directly at the back of the footpath on High Street. A relatively new detached dwelling is sited directly to the west of the application site.

To the south of the site there are agricultural fields.

The agricultural building is constructed of stonework to a height of approximately 2 metres with metal cladding above. It is of a dual-pitched roof form.

## **Background**

There have been two previous applications submitted relating to this barn, the most recent and relevant of which is:

RB2018/1996 – Notification for the proposed Change of Use of an Agricultural Building to a Dwellinghouse (Use Class C3) – WITHDRAWN – 05/03/19

The application was withdrawn as it could not be dealt with under the prior notification process due to part of the site (access road and front curtilage) falling within the Conservation Area.

## CIL

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**

The application is for the conversion of the existing empty agricultural building to a single dwellinghouse with external alterations and associated access / works.

The proposal would create a curtilage to the front which will be used for parking and amenity space within a fenced / walled area, additional amenity space will be provided to the rear and side of the building.

The existing structure of the building is a 300mm concrete raft floor, upon which is seated a building which comprises of a portal steel frame, with external blockwork and stonework walls to approximately 1.8m above ground level and with cementitious profile cladding to eaves height and a profile standing seam cementitious roof.

The external stone walls will be fully retained and the cladding will be removed and renewed with a modern natural alternative as per our submission drawings.

The mezzanine floor will be constructed using the existing supporting steelwork of the building.

The proposal would result in a three bedroom property with integral garage, accessed via the existing agricultural doors in the side (west facing) elevation. A kitchen window at ground floor and bedroom window at first floor are also proposed in this elevation.

The front elevation would have elements of stonework, glazing and cladding. The rear elevation would be set back within the building so the roof creates a covered seating area at ground floor with bi-fold doors and a glass wall, and a small balcony element would be created off the master bedroom at first floor with the side walls of the building projecting beyond. The first floor accommodation would be created by constructing a

mezzanine level over part of the ground floor. Rooflights are proposed in the west and east roofslopes.

Access to the barn will be derived from St Johns Road to the east via a new access driveway that has recently been formed to serve other developments on this overall site.

The adjoining barn, which is in separate ownership, will remain unaffected.

### **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 part Residential and part Green Belt purposes in the Local Plan, (and part of the site also falls within the Laughton-en-le-Morthen Conservation Area). For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS4 'Green Belt'  
CS14 'Accessible Places and Managing Demand for Travel'  
CS23 'Valuing the Historic Environment'  
CS27 'Community Health and Safety'  
CS28 'Sustainable Design'  
CS33 'Presumption in Favour of Sustainable Development'  
SP2 'Development in the Green Belt'  
SP5 'Alternative Uses for Buildings within the Green Belt'  
SP26 'Sustainable Transport for Development'  
SP40 'Listed Buildings'  
SP41 'Conservation Areas'  
SP52 'Pollution Control'  
SP55 'Design Principles'  
SP64 'Access to Community Facilities'

### **Other Material Considerations**

Interim Planning Guidance - 'Development in the Green Belt'. This has been subject to public consultation and adopted by the Council on 3<sup>rd</sup> March 2014.

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.

Council's Car Parking Standards.

South Yorkshire Residential Design Guide.

## **Publicity**

The application has been advertised by way of a press and site notice (as affecting the setting of the Conservation Area and nearby listed buildings) along with individual neighbour notification letters to adjacent properties. 5 letters of objection have been received from residents on School Road, as well as a petition signed by a further 8 residents on School Road. In addition the Parish Council has written in to object to the proposals. Finally, 5 letters in support, from residents on the overall development site (known as Turner Croft) have been received (including one from the applicant who lives adjacent to the site).

The issues raised by those objecting are summarised below:

- There are a number of trees within the field adjacent to the site and also trees next to the gable end of the barn which provide local wild birds with shelter.
- The proposal will increase the amount of light pollution over the adjacent field and neighbouring residents.
- The proposal will increase the amount of noise pollution experienced by neighbouring residents.
- The front gable end is not in keeping with local rural units.
- The glazed gable end to the rear and windows to the side will not be in keeping with the architecture of the rural area and will also impact on privacy.
- The proposed balcony is not in keeping and will affect privacy.
- The plans do not show what is happening to the attached stone-built barn and there are concerns this will be demolished.
- We are concerned about the risk to road users of added traffic both into and out of the site onto High Street.
- Concerned that the barn has an asbestos roof.
- There is no reference to the Grade II Listed Barn or the Conservation Area and the proposal will have a negative impact.

The issues raised by the Parish Council are summarised below:

- The number of houses now using this unadopted road appears to exceed our understanding of the maximum requiring adoption by RMBC.
- The plans show a first-floor area which appears contradictory to the text which states that the first floor was removed in a previous revision.

The letters of support indicate the following:

- The proposal will only help improve the surrounding area.
- Is in keeping with the surrounding plots on Turner Croft.
- The current barn is of a degraded nature and in its current state has a detrimental effect on the surrounding area and properties.
- The proposed development would be in keeping with the surrounding properties, making use of sustainable timber cladding and the main characteristics of the barn will be retained.

2 Right to Speak requests has been received by the applicant and an objector.

### **Consultations**

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

RMBC – Drainage: Have no objections.

RMBC – Environmental Health: Have no objections.

### **Appraisal**

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

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

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

Paragraph 11 of the NPPF states, in part, that: "*Plans and decisions should apply a presumption in favour of sustainable development.*" It goes onto state that "*For decision-taking this means:*

- a) *approving development proposals that accord with an up-to-date development plan without delay; or*
- b) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole" (footnotes omitted).*

The main considerations in the determination of the application are:

- Whether the proposed development represents inappropriate development in the Green Belt
- Design considerations
- Impact on Heritage Assets
- General Amenity
- Highways

Whether the proposed development represents inappropriate development in the Green Belt

The curtilage to be created at the front of the building is located within an area allocated for residential purposes within the adopted Local Plan, whereas the building itself is located within an area allocated for Green Belt. Accordingly, Local Plan policies CS4 'Green Belt', SP2 'Development in the Green Belt' and SP5 'Alternative Uses for Buildings within the Green Belt' will be applicable, as well as the relevant paragraphs of the NPPF.

Local Plan policy CS4 'Green Belt' states: "*Land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy.*" Paragraph 143 of the NPPF states that: "*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*" This is supported by Local Plan policy SP2 'Development in the Green Belt'.

More specifically, Local Plan policy SP5 'Alternative Uses for Buildings within the Green Belt' states: "*The change of use or conversion of a building in the Green Belt is acceptable in principle providing that the proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. Prior to any conversion of a building it should be demonstrated that the building is of permanent and substantial construction....*"

This reiterates guidance within paragraph 146 of the NPPF which states: "*Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are (amongst other things):*

- (d) the re-use of buildings provided that the buildings are of permanent and substantial construction;"

The Council's Interim Planning Guidance - 'Development in the Green Belt' states: "*The conversion of an existing building is acceptable in principle providing the proposal preserves the openness of the Green Belt and does not conflict with the purposes of including land within it, the re-use of buildings is not inappropriate development, provided that the buildings are of permanent and substantial construction.*

*For a building to be of permanent and substantial construction it must have walls and a roof, be structurally sound and not require significant re-building, cladding or significant external alterations. This would also include a building that would require significant internal alterations to bring it up to habitable standards unless it is desirable to retain the building because of the historic value or visual amenity that it provides.*"

In this instance the building is of a permanent and substantial construction with stone dwarf walls and a steel frame with existing cladding. Although the cladding will be removed and replaced with the new timber cladding, the structure of the building will remain intact and would not be affected by the works as the cladding would be attached to the existing frame of the building. It is noted that new cladding could be added to the existing structure as repair / maintenance work which would not require permission. Furthermore, the proposed mezzanine would be constructed using the existing supporting steelwork of the building.

Given the building already exists and there are no proposals to extend the building, it would preserve the openness of the Green Belt. and would not conflict with the

purposes of including land within the Green Belt. Furthermore, the Green Belt serves five purposes as set out in paragraph 134 of the NPPF, which includes to check unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The proposal will not encroach into the Green Belt any further than the existing built form, will not lead to neighbouring towns merging and will recycle an unused building within a relatively built-up area.

Accordingly, the proposal does not represent inappropriate development in the Green Belt as it satisfies one of the exemptions listed in paragraph 146 of the NPPF and complies with the requirements outlined in Local Plan policies CS4 'Green Belt', SP2 'Development in the Green Belt' and SP5 'Alternative Uses for Buildings within the Green Belt'.

Notwithstanding the above, the NPPF at paragraph 79 states planning decisions should avoid the development of isolated homes in the countryside. Furthermore, Local Plan policy SP64 'Access to Community Facilities' states: *"Residential development should have good access to a range of shops and services..."*

In this instance the site would not introduce an isolated dwelling in the countryside as it would be sited within a complex of properties within the village of Laughton-en-le-Morthen, close to public transport and in close proximity to places of worship, schools.

Accordingly, having regard to the above principle of development is acceptable in this instance and it would result in a sustainable form of development. The remainder of the report will assess whether there are any material considerations that would outweigh the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF and Local Plan policy CS33 'Presumption in Favour of Sustainable Development'.

### Design considerations

Local Plan policy CS28 'Sustainable Design' indicates 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. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions.

Policy SP55 'Design Principles' states development is required to be of high quality and incorporate inclusive design principles and positively contribute to the local character and distinctiveness of an area and the way it functions.

The Council's Interim Planning Guidance - 'Development in the Green Belt' states: *"Whilst the conversion of a rural building is acceptable in principle, it is important that certain design principles and other issues are considered..."*

The NPPG 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 planning permission for development of poor design.”*

The NPPF at paragraph 124 states: *“Good design is fundamental to what the planning and development process should achieve. 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 127 states planning decisions should ensure developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place.

The barn is of a substantial and permanent construction and the external works to the barn, which include vertical slat larch cladding above the existing stone walls, the re-roofing and glazing elements are considered appropriate. Furthermore, the incorporation of the expansive glazed wall to the rear elevation and large glazed element to the front elevation would give the building a modern appearance whilst allowing its original form to remain.

It is therefore considered that the alterations to the building hereby proposed are acceptable and would significantly enhance the appearance of the barn. Furthermore, the works will be in keeping with the adjacent barns that have been converted recently, as well as the recently constructed dwellings.

It is therefore considered that from a design perspective the proposal would represent an acceptable and appropriate form of development that would be in compliance with the requirements of the NPPF and the Local Plan policies referred to above.

#### Impact on Heritage Assets

The curtilage to be created at the front of the building is located within the Laughton-en-le-Morthen Conservation Area, while the building and amenity space to the side and rear are outside of the Conservation Area. In addition Manor Barn which is sited to the north-east of the application site on the opposite side of the private drive and no. 9 High Street to the north adjacent the High Street access are Grade II Listed Buildings.

Policy CS23 ‘Valuing the Historic Environment’ states: *“Rotherham's historic environment will be conserved, enhanced and managed, in accordance with the principles set out below:*

- a. Proposals and initiatives will be supported which conserve and enhance the heritage significance and setting of the borough's heritage assets, specifically those elements which contribute to the distinct identity of the borough...”*

Policy SP40 ‘Listed Buildings’ states: *“Development proposals affecting a Listed Building or its setting will be considered against the following principles:*

- a. *special regard will be given to the preservation of Listed Buildings and structures. Therefore substantial harm to or demolition of a Listed Building will be strongly resisted...*
- c. *the Council encourages the development of good quality, contextual design, including any development within the setting of Listed Buildings. Development which has an adverse effect on the setting of Listed Buildings will not be acceptable...*
- g. *where appropriate, proposals will be supported which enhance or better reveal the significance of a Listed Building or structure."*

Policy SP41 'Conservation Areas' states: *"Development proposals within or likely to affect the setting of a Conservation Area will be considered against the following principles:*

- a. *developments are required to ensure the preservation or enhancement of the special character or appearance of Rotherham's Conservation Areas and their settings;*
- b. *there is a presumption in favour of the preservation of buildings and structures, both listed and unlisted, which make a positive contribution to the special character or appearance of Conservation Areas..."*

Paragraph 192 of the NPPF states: *"In determining applications, local planning authorities should take account of:*

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

It is considered that given the location of the barn, being a suitable distance from the nearest Listed Buildings, the works proposed to it would not affect the setting of these listed buildings. Furthermore, it is not considered that the works proposed would adversely affect the character of the adjacent Conservation Area or the setting of the adjacent Listed Buildings.

Accordingly, notwithstanding the issues raised by local residents the proposal would significantly contribute to enhancing the character of the Conservation Area and would not have a significant impact on the setting of the adjacent Listed Buildings, as such the proposal will comply with adopted Local Plan policies CS23 'Valuing the Historic Environment', SP40 'Listed Buildings' and SP41 'Conservation Areas', as well as paragraph 192 of the NPPF. Therefore the proposal raises no heritage issues.

### General Amenity

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

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

In respect of amenity there are two elements:

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

*Impact of the construction phase on existing local residents*

In relation to construction, the 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; 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.

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

With regard to the impact on the occupants of existing properties, the nearest properties to the development are Manor Farm to the north and South Paddock House and properties on School Road to the west. As the building is already in situ and it is not proposed to be increased in size or height, the impact in respect of outlook from neighbouring properties and overshadowing will be no different to what is currently experienced. In fact the visual appearance of the building from neighbouring properties will only be enhanced given the current appearance of the building.

It is noted that residents on School Road have raised a number of concerns in respect of overlooking and privacy from the proposed windows on the side (west facing) elevation and the proposed balcony and glazing wall on the rear elevation. The window at first floor level proposed in the west elevation would be approximately 27 metres to the rear boundary of the closest property on School Road and approximately 32 metres to the rear elevation of the same property. The South Yorkshire Residential Design Guide states that there should be no habitable room window within 10 metres of a boundary with another property and a minimum of 21 metres between habitable room windows. The distances therefore are well in excess of the guidance and as such there will be no significant overlooking from these windows.

With regard to the balcony in the rear elevation and the large glazing wall, it is of note that the rear wall of the existing barn is to be taken down and the new glazing wall recessed approximately 4.2 metres so the roof overhangs and the two side elevations project further. The balcony would be recessed approximately 2.2 metres back from the original rear elevation. It is therefore considered that given the glazing wall and balcony would be recessed into the building with the roof and side elevations projecting, this will act as a screen and minimise views of neighbouring properties. Therefore together with

the distance to rear gardens and rear elevations of properties on School Road the proposal would not give rise to any significant overlooking or privacy issues.

In respect of impact on the amenity of future residents of the property, the immediate surrounding area is characterised by residential properties. However, the adjoining barn is currently used as a storage facility for the development taking place at Turner Croft. It has several items of plant and building materials within but has no machinery or noise producing equipment.

The building was historically used for storage of cattle feed and farming equipment but at no time has it ever been used for any noise producing activity and it is understood that there are no plans for this to change.

Further to the above it is considered that given the all the other former farm buildings related to Turner Farm have been converted, it would be likely that an application would be submitted for this last remaining barn to be converted at some point in the future.

It is considered that given the use of the adjoining barn there is unlikely to be any significant adverse impact on future occupants in respect of noise disturbance. However, in order to ensure this is the case a condition shall be appended to seek the submission of details regarding the proposed sound insulation for the dwelling.

The dwelling is provided with a garden area that satisfies the guidance in the South Yorkshire Residential Design Guide for dwellings of this size.

Objectors have raised concerns about the amount of light pollution that the proposal will create and also noise pollution when complete. Whilst noted it is considered that the proposal would create no significant light or noise pollution, given the nature of the proposal as a residential dwelling. Furthermore, should future occupants create significant noise or shine lights directly into adjacent properties this would be assessed at the time by Environmental Health as a noise or light nuisance complaint and dealt with via the Environmental Protection Act.

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

### Highways

Paragraph 109 of the NPPF 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."*

CS14 'Accessible Places and Managing Demand for Travel' states the Council will work on making places more accessible and that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by, amongst other things, 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. Policy CS14 is supported by paragraphs 108 and 110 of the NPPF.

SP26 'Sustainable Transport for Development' states: *"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..."*

The proposed dwelling would be accessed solely from the recently constructed private driveway from St John's Road which has been built as part of an application in 2013 to demolish agricultural buildings and construct 3 dwellings to the north-east of the site. In addition, the development is proposed to have integral parking accessed via existing openings in the side elevation of the barn, there is also potential for cars to park to the front of the building. As such the proposal satisfies the Council's Parking Standards.

It is noted that an issue was raised by an objector to additional vehicular movements onto High Street from the complex which could affect the highway safety of other users due to the visibility. However, the applicant does not own or have a right of access over the land to High Street from the development and as noted in the supporting information a fence is to be erected to block access to High Street and the only vehicular access to the proposed conversion will be via the recently constructed private drive from St John's Road.

It is further noted that the number of dwellings utilising this private drive would be six, which is one above the Council's usual guidance. However, the Transportation Infrastructure Service have indicated that in this instance an additional dwelling is considered acceptable from this private drive due to the fact that the proposal is a conversion of an existing farm building, which in its own right could generate significant traffic (large vehicles) on a private drive. Therefore, the conversion to a dwelling will be less onerous in transportation terms.

In view of the above it is considered that the proposal would not give rise to any highway issues, subject to relevant conditions including one to ensure that no vehicular access is permitted to / from High Street to the new dwelling, and to ensure that any hard surfacing is constructed of a permeable material.

Therefore, from a highway perspective the scheme would comply with policies CS14 'Accessible Places and Managing Demand for Travel' and SP26 'Sustainable Transport for Development'.

#### Other considerations

The issues raised by local residents and the Parish Council are noted and the majority of the issues raised in respect of design, conservation, highway and amenity issues have been assessed in the prevailing sections of the report.

With regard to the issue raised that there have been a number of trees felled in the field adjacent to the site, the field is outside of the applicant's ownership, as such they have no control over these trees. In addition they have noted that the Cherry Tree to the side of the barn will remain unaffected.

With regard to the attached 'stone' barn, it is not of stone construction but is very similar in appearance to the application building, and it sits outside of the application site and is not in the applicant's ownership.

Finally, the material of the barn may have ACM (Asbestos Containing Materials). During development, this would be treated in accordance with CAR 2012 (The Control of Asbestos Regulations 2012) and the development will also be notifiable under the CDM Regulations 2015 and be controlled as a project notifiable to the Health and Safety Executive.

Accordingly, whilst the issues raised have been considered, both collectively and individually they do not outweigh the fact that the proposal satisfies national and local planning policies and guidance.

### **Conclusion**

Having regard to the above, the application is considered to be acceptable in principle and represents an acceptable form of development within the Green Belt which is of an appropriate design that would not adversely affect the character or appearance of the locality, the Conservation Area or the adjacent Listed Buildings. 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**

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)

CS/02439/1B, received 3 June 2019

CS/02439/3B, received 21 May 2019

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted application form/shown on drawing no CS/02439/3B. The development shall thereafter be carried out in accordance with these details.

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity.

04

The dwelling shall not be occupied 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 within a timeframe to be agreed with the Local Planning Authority and shall thereafter remain.

Reason

In the interests of the visual amenity of the area.

05

All rooflights shall be Conservation style rooflights fitted flush with the roofslope.

Reason

In the interest of the special interest of the building and its setting.

06

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

07

The dwelling hereby approved shall only be served via the private drive to St John's Road.

Reason

In the interests of highway safety.

08

Prior to the dwelling being occupied, the developer shall assess the existing sound insulation provided between the application barn and the adjoining barn, for both airborne and impact sound. A report detailing this, and any recommended upgrading of the noise insulation so as to prevent loss of amenity to the future occupants from the adjoining barn, shall be submitted to and approved by the Local Planning Authority. All such recommendations in the approved report shall be undertaken within a timeframe to be agreed.

Reason

In the interests of the amenity of the locality.

## **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.

02

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

Furthermore, vegetation removal should be undertaken outside of the bird breeding season, March to September inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

## **POSITIVE AND PROACTIVE STATEMENT**

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

<b>Application Number</b>	<b>RB2019/0838</b>
<b>Proposal and Location</b>	Demolition of existing buildings and erection of 69 room hotel with associated ground floor restaurant / bar and meeting rooms, and a standalone ground floor retail unit at Fusion, Corporation Street, Rotherham Town Centre
<b>Recommendation</b>	Grant conditionally

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



### Site Description & Location

The application site is located on the eastern side of Corporation Street in Rotherham Town Centre. The site is bounded by The County (Public House) to the north, offices to the south, and the rear of premises on Bridgegate to the east, which include a casino, a fast food restaurant, a tanning salon, a betting shop and a public house.

The site currently comprises of two derelict (partly fire damaged) buildings, a former single-storey restaurant located within the northern part of the site and a two-storey building formerly occupied by a nightclub at first floor and tearooms within the ground floor within the southern part of the site. A private access road serving as the main goods access for buildings with frontages on Bridgegate bisects the site from east to west and curves around the back of the former nightclub building.

The application site is located in proximity to a number of designated heritage assets, most notably the Grade I Listed Church of All Saints, Rotherham Bridge (also a Scheduled Monument) and the Chapel of Our Lady, and also sits within Rotherham Town Centre Conservation Area.

## Background

There has been a number of previous planning applications submitted relating to this site, the most recent of which are:

RB1998/0203 – Alterations to roof, extension and construction of new fire exit – Granted Conditionally – 20/03/1998

RB2001/1291 – New entrance doors and glass canopy – Granted Conditionally – 01/11/01

RB2005/1998 – Change of use from retail to restaurant – Granted Conditionally – 08/12/05

The site has been vacant since the buildings were burnt out around 2008.

## Proposal

The application is for the demolition of the existing buildings and erection of a 69-bed hotel with associated ground floor restaurant / bar and meeting rooms and a standalone retail unit.

The Gross Internal Area (GIA) is 2,861 sq. metres. The proposal would provide the following accommodation:

Ground Floor (GIA = 794 sq. metres)

- A1 unit (164 sq. metres)
- Restaurant / Bar (185 sq. metres)
- Reception (84 sq. metres)
- Luggage Store (13 sq. metres)
- Meeting Rooms (60 sq. metres)
- Offices (32 sq. metres)
- Staff Area (80 sq. metres)
- Toilets (31 sq. metres)
- Plant (55 sq. metres)

First Floor (GIA = 815 sq. metres)

- 26 bedrooms (554.2 sq. metres)

Second Floor (GIA = 691 sq. metres)

- 24 bedrooms (475.5 sq. metres)

Third Floor (GIA = 560.6 sq. metres)

- 19 bedrooms (367 sq. metres)

The building would use the topography of the site raising in height from two-storey adjacent The County PH to the north of the site to its maximum four-storey in the southern part and would be of a flat roof form.

It is proposed to be constructed predominantly in red brick with stone detailing, grey cladding and glazing. A grey clad box would be provided as a link between the two-storey and four storey elements and would be above ground to allow vehicular access to the rear service yard.

The ground floor of the main building would be set back slightly from the footpath with the upper floors overhanging and columns below. The rest of the building (the grey clad box and the standalone retail unit) would be set further back from the street.

During the course of the consideration of the application the scheme was amended by cutting back the 3<sup>rd</sup> floor store to the northern end so that views of the Minster's western half from key views from the north can be retained.

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

### Design and Access Statement

The statement explains the design principles and concepts that have been applied to the development and consideration of local and national planning policies.

### Planning Statement

The Planning Statement identifies the site location and provides a description of the site forming this full application, outlines relevant planning history, sets out the relevant planning policy and concludes with the planning case in support of the proposed residential scheme.

### Ecology Assessment

The assessment is required to assess the bat roost suitability of the buildings and to search their structures for evidence of roosting bats in order to identify any constraints to their proposed development.

The assessment concludes that despite the availability of access internally and the presences of a limited number of suitable features, the buildings are assessed as being of low bat roost suitability due to their urban nature and poor condition. However, the works have potential to disturb roosting bats, where present, during the demolition of the existing buildings. It is recommended that further survey is undertaken to determine the presence or likely absence of roosting bats prior to works being undertaken and a bat emergence or re-entry survey at the buildings is undertaken during the recognised bat survey season (May to August inclusive).

### Bat Emergence / Re-entry Survey

This survey was required following a Preliminary Roost Assessment (PRA) which identified the buildings as having low suitability for roosting bats, to ascertain the presence/likely absence of roosting bats prior to demolition to allow for new development. No roosting bats were observed during the surveys, and low levels of bat

activity were recorded comprising mainly common pipistrelles, unidentified pipistrelles and *Nyctalus* sp. from Position 1 during the first survey. Sporadic commuting and foraging passes were seen over and through the building, although the majority of activity was heard but not seen.

The proposed works can proceed unrestricted in relation to roosting bats, however due to the poor condition of the building, where works do not proceed within 12 months survey should be repeated to confirm the absence of roosting bats.

To mitigate the loss of a small number of sub-optimal roosting features, it is recommended that five integral bat boxes are incorporated into the new development.

### Noise Impact Assessment

The assessment is to establish the ambient and background noise levels at the application site; assess the potential impact of the ambient noise climate on the proposed development with reference to relevant guidelines and provide recommendations for a scheme of sound attenuation works, as necessary, to ensure that the future occupants of the proposed residential development do not experience any unacceptable loss of amenity due to noise.

The assessment concludes that with the recommended sound attenuation scheme in place, the ambient noise climate is not considered to represent a constraint to the proposed development.

### Heritage Statement

The statement sets out an assessment of the potential impacts upon the built historic environment arising from proposed redevelopment.

The statement concludes that whilst of varying extent and degree the overall impact upon these designated heritage assets is considered to be minimal and would amount to harm that is less than substantial. It further concludes that the proposed scale and massing of the building is, on balance, acceptable given the benefits to be secured through redevelopment.

### Flood Risk Assessment

The assessment provides an assessment of the proposals and makes recommendations for any flood mitigation measures.

The report confirms that the site falls within Flood Zone 1 and Flood Zone 2 and flood mitigation measures are required in the event of a fluvial flooding, a catastrophic storm or blockage of the existing or proposed sewers. The report recommends several mitigation measures which are summarised as:

- Finished floor levels shall be raised above general external levels to a minimum of the 1 in 100-year plus climate change flood level.
- The development should be designed without any basements and ground floors should comprise solid concrete slabs or beams.
- A flood evacuation plan should be in place for the development.
- Flood doors should be incorporated to any openings into the building.

- Access to an upper room where fire escape windows can be provided to evacuate the building should be included.
- Electricity supplies should be raised above ground floor level and internal plaster should be waterproof.

It concludes that subject to compliance with the recommendations, the proposed development can satisfy the requirements of the NPPF and Planning Practice Guidance in relation to flood risk.

### **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 Retail purposes in the Local Plan, and also falls within the Rotherham Town Centre Conservation Area. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS1 'Delivering Rotherham's Spatial Strategy'  
CS11 'Tourism and the Visitor Economy'  
CS12 'Managing Change in Rotherham's Retail and Service Centres'  
CS13 'Transforming Rotherham Town Centre'  
CS14 'Accessible Places and Managing Demand for Travel'  
CS20 'Biodiversity and Geodiversity'  
CS23 'Valuing the Historic Environment'  
CS25 'Dealing with Flood Risk'  
CS27 'Community Health and Safety'  
CS28 'Sustainable Design'  
SP1 'Sites Allocated for Development'  
SP19 'Development Within Town, District and Local Centres'  
SP24 'Rotherham Town Centre Regeneration'  
SP40 'Listed Buildings'  
SP41 'Conservation Areas'  
SP43 'Conserving and Recording the Historic Environment'  
SP47 'Understanding and Managing Flood Risk and Drainage'  
SP52 'Pollution Control'  
SP55 'Design Principles'  
WCS7 'Managing Waste In All Developments'

### **Other Material Considerations**

Rotherham Town Centre Supplementary Planning Document

National Planning Practice Guidance (NPPG)

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.

### **Publicity**

The application has been advertised by way of press, and site notice along with individual neighbour notification letters to adjacent properties. No letters of representation have been received.

### **Consultations**

RMBC – Transportation Infrastructure Service: No objections subject to conditions.

RMBC – Environmental Health: Have no objections subject to conditions and informatives regarding working practices during demolition and construction phase and mechanical extract ventilation details.

RMBC – Conservation (Consultant): The proposal would have less than substantial harm on adjacent Listed Buildings and no adverse impact on Conservation Area.

RMBC – Ecology: No objections subject to conditions.

RMBC – Drainage: No objections subject to conditions.

RMBC – Land Contamination: Have no objections subject to conditions.

RMBC – Landscape Design: Have no objections.

Historic England: Have concerns regarding the application on heritage grounds, but are content for the Council to consider whether the amendments are sufficient and to weigh the remaining harm to the setting of the Minster against public benefits of the scheme.

South Yorkshire Archaeology Service: Have no objections.

SY Police Architectural Liaison Officer: Have no objections.

### **Appraisal**

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

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

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

The main considerations in the determination of the application are:

- Principle
- Design (including layout and scale)
- Impact on Heritage Assets
- General amenity
- Drainage and Flood Risk
- Ecological impact
- Highway considerations
- Other matters

## Principle

The site is within Rotherham town centre, but falls outside of the primary and secondary shopping frontages.

The site is designated as a Retail allocation site (ref: R3). Policy SP1 'Sites Allocated for Development' refers to Chapter 5 'Site Development Guidelines' which identify specific key development principles for this site, which should be taken into account in any proposed development. It notes that these are not exhaustive and development proposals must satisfy all other relevant planning policies.

The Site Development Guidelines state:

1. This site lies within the Rotherham Regeneration area as defined in Core Strategy Map 12 to which the Rotherham Flood Risk Toolkit applies (as set out in Core Strategy Policy CS 25 'Dealing with Flood Risk.') This site lies within Flood Zone 2 and a Flood Risk Assessment will be required including river and surface water flood risk.
2. Although not assessed in the Council's Archaeology Scoping Studies, South Yorkshire Archaeology Service advise that development proposals will need to be supported with a Heritage Statement for Archaeology prepared in line with the requirements for site classification 2 highlighted blue in Table 17 'Heritage Statement for Archaeology Requirements'.
3. A Heritage Statement shall be submitted with any subsequent planning application to identify the significance and to assess the impact of development upon nearby listed buildings, in particular Rotherham Minster, the Chapel of Our Lady, and Rotherham Bridge and their wider settings. All three of these buildings / structures are Grade I listed and, therefore, of national significance. In addition, the Chapel of Our Lady and Rotherham Bridge are both Scheduled Ancient Monuments.
4. As a highly visible site within the Rotherham Town Centre Conservation Area and its proximity to the listed buildings referred to above, it is essential that development reflects existing character and quality of the wider townscape. There will be a need for sensitive layout, design, scale, height and materials to ensure it contributes positively to its location and does not have an adverse impact on heritage assets. In particular, the height of any new development shall not exceed three storeys in height.

The application provides 164sq.m of A1 retail floorspace; 185sq.m of A3 floorspace; and 2,512sq.m of C1 hotel floorspace.

The Core Strategy identifies a need to plan for 7,500sq.m of convenience goods and 11,000sq.m of comparison goods floorspace in the Rotherham urban area (indicative figures), with the comparison goods floorspace primarily directed towards Rotherham town centre.

The Sites and Policies document allocates three sites for retail use in Rotherham town centre which extend to 11,000sq.m. This site (allocation R3) accounts for some 1,000sq.m. Policy SP24 'Rotherham Town Centre Regeneration' indicates that for this site the Council will encourage the development of retail floorspace at ground floor level with residential uses above. It goes on to note that this does not preclude the development of alternative or supporting uses.

Policy SP19 'Development Within Town, District and Local Centres' states at Part 2 that within Town, District and Local shopping centres but outside of Main Shopping Areas, development proposals for A1, A3 and C1, amongst others, will be acceptable in principle subject to meeting the requirements of other relevant planning policies.

It is noted that the proposed development would provide significantly less A1 retail floorspace on this site than that set out in the Sites and Policies document. However, it is considered that the proposed mix of uses is appropriate in order to ensure a viable scheme to address this derelict site. Accordingly, the proposal would satisfy policies SP19 'Development Within Town, District and Local Centres' and SP24 'Rotherham Town Centre Regeneration'

Further to the above, 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. Moreover, policy CS13 'Transforming Rotherham Town Centre' states that Rotherham town centre is and will remain the borough's primary retail, leisure, cultural and service centre. The Council and its partners are committed to delivering town centre regeneration through developments that improve the quality and diversity of retail and other town centre uses and promote sustainable urban living.

The proposed development would introduce a retail and leisure development into the town centre that will enhance the vitality and viability of the town centre by redeveloping this long standing derelict site. In addition, the scheme will aid in the Council's commitment to delivering the regeneration of the town centre. As such the scheme would comply with the requirements of policies CS12 'Managing Change in Rotherham's Retail and Service Centres' and CS13 'Transforming Rotherham Town Centre'.

Furthermore, the proposed development would comply with the requirements of policy CS11 'Tourism and the Visitor Economy' which states the Council will support development proposals for hotels in appropriate locations, of which the town centre is one.

Having regard to the above it is considered that for the reasons set out above the principle of the proposed development would be acceptable.

Design (including layout and scale)

The NPPF at paragraph 124 states: *“The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. 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 127 of the NPPF states planning decisions should ensure that developments add to the overall quality of the area are visually attractive as a result of good architecture and are sympathetic to the local character.

Policy CS28 ‘Sustainable Design’ states design should take all opportunities to improve the character and quality of an area and the way it functions. Policy SP55 ‘Design Principles’ adds that all forms of development are required to be of a high quality, incorporate inclusive design principles and positively contribute to the local character and distinctiveness of an area.

The proposal has been designed to step back as the levels rise going up Corporation Street. This allows for a stronger contextual connection and a more engaging street presence. In addition its flat roof form greatly helps in minimising the scale and reflects the character of other buildings on Corporation Street.

The ground floor level has been set back from the street to provide some relief from the street scene. It also allows the opportunity to introduce soft landscaping in the form of planting/greenery. The proposal maintains an existing access route to the rear of the property where other neighbouring buildings are serviced. It is from this access route that the proposal will be serviced in the form of refuse collection and deliveries to both the commercial unit and restaurant/bar.

The proposed development would introduce ground floor commercial units that would capitalise on the site’s prominent location within the town centre and offer an active frontage to Corporation Street which will bring much needed redevelopment to the immediate area and be beneficial to established commercial premises adjacent. In addition, the removal of two fire damaged buildings that have been left derelict for over 10 years and are a visual eyesore along this significant route through the town will drastically improve the perception of the town centre, further enhancing the overall regeneration of the area.

The material palette would be a mixture of predominantly red brick and stone details. These reflect the use of red brick and stone within the existing context. The introduction of grey cladding provides a breaking up of the brickwork, creating more visual interest and provides lightweight details/elements to the proposal in the form of projections and setbacks. The base of the proposal is a dark engineering brick plinth. This provides a visually defined layer that anchors the proposal within the context at ground level.

In light of the above it is considered that the proposed development has been sympathetically designed taking account of the site constraints, in respect of the levels and relationship with neighbouring properties. Furthermore, the modern, contemporary design of the building, its size, scale and siting together with the materials proposed would raise no design issues.

It is therefore considered that the proposed site layout and building design 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 detailed above, along with the provisions of the NPPF.

#### Impact on Heritage Assets

The application site falls within the Rotherham town centre Conservation Area and is sited close to a number of heritage assets, in particular Rotherham Minster, the Chapel of Our Lady, and Rotherham Bridge. All three of these buildings / structures are Grade I listed and, therefore, of national significance. In addition, the Chapel of Our Lady and Rotherham Bridge are both Scheduled Ancient Monuments.

The Site Development Guidelines require the submission of a Heritage Statement to assess the impact on the aforementioned heritage assets and the wider Conservation Area. In addition, it states that given its location in the Conservation Area and its proximity to the listed buildings referred to above, it is essential that development reflects existing character and quality of the wider townscape. Furthermore, there will be a need for sensitive layout, design, scale, height and materials to ensure it contributes positively to its location and does not have an adverse impact on heritage assets. In particular, the height of any new development shall not exceed three storeys in height.

Paragraph 192 of the NPPF states that in determining applications consideration should be had to the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 to 202 sets out what should be considered when assessing the potential impacts of a proposal on heritage assets.

Policy CS23 'Valuing the Historic Environment' states Rotherham's historic environment will be conserved, enhanced and managed, in accordance with several principles. One of which states: *"The character and setting of Rotherham Minster...will be conserved and enhanced. Proposals will be supported which respect and enhance key views and vistas..."*

Policy SP40 'Listed Buildings' states development affect a listed building's setting will be considered against a number of principles, one of which states: *"...the Council encourages the development of good quality, contextual design, including any development within the setting of Listed Buildings. Development which has an adverse effect on the setting of Listed Buildings will not be acceptable..."*

Policy SP41 'Conservation Areas' states developments are required to ensure the preservation or enhancement of the special character or appearance of the Conservation Area or its setting.

Furthermore, the Listed Building and Conservation Areas Act 1990 (as amended) s16(2) states that the Local Planning Authority shall have *"special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."* Moreover, conservation area policy found in s.72 of the Listed Building and Conservation Areas Act applies – which sets out

the duty of the Local Planning Authority to preserve and enhance the special architectural or historic character of the Conservation Area.

In addition, in determining this application regard should be had to the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

In terms of impact on the Grade II listed buildings (The Imperial Building and 31 Bridgegate) and the Grade I listed Rotherham Bridge (also scheduled), it is considered that given their typology and historic context, the proposals will have very limited if any, impact on their setting, and in turn their significance.

The proposals will however impact on the setting of the Grade I listed Minster Church of All Saints Rotherham, a central landmark within the town since the 15<sup>th</sup> Century, and also on the setting of Grade I listed medieval Chapel of Our Lady, only one of 6 bridge chapels surviving in England.

The Minster sits on an elevated location within the town centre and this elevated position would have been a very deliberate choice to ensure its visibility to its parishioners as they went about their daily lives. Therefore, the visibility and consequently views of the Minster forms an important part of its setting and as such, its significance.

It is acknowledged that the historic views and scale requirements have been taken into account in the design of the scheme which steps up in scale across the site from north to south to respect the scale of existing properties to either end of the site and to maintain historic views between Chapel of Our Lady on the Bridge to Rotherham Minster. The flat roof form has also been incorporated to help minimise the scale and impact.

Notwithstanding the above the originally submitted plans, in particular the four storey element, would have obscured from view the currently visible naves embattlement with crocheted pinnacles to the west of the town and would impinge on a key view from the Chapel of Our Lady on the Bridge to Rotherham Minster. The impingement occurred as a result of a section of the 3<sup>rd</sup> floor. Historic England expressed some concerns about the mass of the southernmost block which resulted from the deep plan form and flat roof, which would have obscured much of the western half of the Minster in key views from the North.

Amendments have been received which cut backs the 3<sup>rd</sup> floor store to the northern end, so that views of the Minster can be retained. Historic England have stated that these amendments do not go as far as previously suggested, but have reduced the impression of bulk in views from the north and reveal more of the west end of the Minster which is welcomed. Historic England have confirmed that they are content for the Local Authority to consider whether the amendments are sufficient and to weigh the remaining harm to the setting of the Minster against the public benefits of the scheme as per paragraph 196 of the NPPF.

It is acknowledged that at 4 storeys the proposal would still, in part, be contrary to the site development guidelines, within the Sites and Policies Document. However, in this instance due to the step-up in height to take account of the street raising up from north to south, the flat roof form of the development and not being any higher than the adjacent building, together with the minimal impact on views of the Minster it is considered acceptable.

Paragraph 196 states: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

In respect of level of harm, and subject to the amendments at the third storey level, the Council’s Conservation Consultant has confirmed that the proposal would cause ‘less than substantial harm’ to the setting of the Minster and Our Lady’s Chapel and consequently they agree with Historic England’s comments that the harm should be assessed against the public benefits of the scheme as set out in the paragraph above.

It is considered that there are a number of public benefits to this scheme that would outweigh the less than substantial harm. These include the heritage benefits and the enhancement that would be secured through the redevelopment of the site and the removal of the dilapidated buildings which are negative contributors to the heritage significance. Furthermore, there would be significant socio-economic benefits of redeveloping this long standing dilapidated site which sits in a prominent town centre location and the proposed scheme would aid in the Council’s overall promotion of the town centre’s regeneration.

In light of the above it is considered that there are significant public benefits to redeveloping this site that would outweigh the less than substantial harm on the setting of the Minster and Our Lady’s Chapel.

With regard to the impact on Rotherham Town Centre Conservation Area, the existing buildings on site are dilapidated, low quality 20<sup>th</sup> century buildings that represent a negative feature in the Conservation Area which detract from its character and appearance. The proposed development of the site is therefore welcomed. The staggered building height, the movement in terms of massing, the responsive building line, the attention to symmetry, the ‘piano noble’ detailing of the ground floor, the vertical emphasis in term of design detailing to the upper floors and the indicative materials all represent a vast improvement to the existing. The stagger in building heights also aids with the transition from the non-designated heritage asset ‘The County’ public house.

This a well-considered contemporary response to the character and appearance of the Conservation Area and whilst the roof form and massing of the higher storeys may not be characteristic, this is set piece of quality architect and represents positive contribution to the townscape. Its success at steering clear of the realm of pastiche, justifies the use of an alien roof form and a massing which will not be apparent other than from aerial photos due to its somewhat landlocked location. The negative of this proposal from a conservation area perspective lies in the impingement on the view of the Minster from Bridge Street but when the proposal is considered as a whole, on balance the character and appearance of the conservation area is preserved as the positives associated with the redevelopment of the site provide a counter balance to the identified harm.

The Site Development Guidelines states that a Heritage Statement for Archaeology prepared in line with the requirements for site classification 2 highlighted blue in Table 17 'Heritage Statement for Archaeology Requirements', should be submitted with the application. The submitted report has been assessed by South Yorkshire Archaeology Service who have stated that there was a late 19<sup>th</sup> – early 20<sup>th</sup> century brass works here, along with contemporary workers housing. However, given the nature and extent of subsequent development, survival will be poor and South Yorkshire Archaeology Service considers that the archaeological potential of this site is low. Accordingly, South Yorkshire Archaeology Service has indicated that it will not be necessary to attach an archaeological condition, should consent be granted.

Having regard to the above it is considered that for the reasons set out, the proposed development would have a less than substantial harm on the setting of the Minster and Our Lady's Chapel, but there are significant public benefits to developing this site that would outweigh this harm. Therefore, the scheme would comply with relevant paragraphs of the NPPF and Local Plan policies.

#### General 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.

In respect of the impact of the building itself on the occupants of neighbouring buildings, it is considered that the building would not detrimentally impact on neighbouring occupiers by virtue of its siting, design features, height, mass, form and scale, together with the orientation of the site, land levels 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.

Residential accommodation is located approximately 140m from the proposed development, and the main considerations are noise from the proposed uses, opening hours, general disturbance and potential odour from cooking fumes. It is considered that given the nature of the uses hereby proposed, together with the distance to neighbouring residential accommodation and the site's location within the town centre close to other night time uses, the impact of the proposed uses on the nearest residential accommodation is likely to be minimal. In addition, although no opening hours for the ground floor have been put forward as the end user is not known it is considered that given the location of the site and the nature of the use there is no requirement to impose a restriction on the ground floor retail and associated bar / restaurant unit's hours of opening. However, it is considered appropriate to impose a condition requiring details of suitable extraction and / or filtration systems are submitted before their implementation.

It is also of noted that given the site's location there is potential for noise and general disturbance to affect future guests of the hotel. However, this can be mitigated through suitable use of materials in the construction of the building.

Further to the above, it is noted that effects of works during the construction phase are inevitable with building works. 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.

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

#### Drainage and Flood Risk

This site lies within the Rotherham Regeneration area as defined in Core Strategy Map 12 to which the Rotherham Flood Risk Toolkit applies, as set out in Core Strategy Policy CS25 'Dealing with Flood Risk'. This site lies within Flood Zone 2 and a Flood Risk Assessment has been submitted in support of the application in order to assess river and surface water flood risk.

Policy CS25 'Dealing with Flood Risk' states: "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..." In addition, SP47 'Understanding and Managing Flood Risk and Drainage' states: "*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...c) consider the possibility of providing flood resilience works and products for properties to minimise the risk of internal flooding to properties.*"

The Council's Drainage Engineer originally objected to this proposal due to a lack of information. However, additional information in the form of a revised Flood Risk

Assessment, Flood Risk Checklist and supplementary drawings has been submitted for consideration.

The amended information has been assessed and is considered to be acceptable from drainage and flood risk perspective. Accordingly, the Council's Drainage Engineer has withdrawn their objection and has raised no objections with the scheme subject to conditions which require the scheme to be carried out in accordance with the recommendations of the amended flood risk assessment; details of surface water drainage being submitted and approved before above ground development; and a flood evacuation route plan is submitted before the site is occupied.

Accordingly, with regard to the above the scheme, subject to conditions would satisfy policy CS25 'Dealing with Flood Risk'.

#### Ecological impact

Policy CS20 'Biodiversity and Geodiversity' states the Council will conserve and enhance Rotherham's natural environment, and biodiversity and geodiversity resources will be protected and measures will be taken to enhance these resources in terms of nationally and locally prioritised sites, habitats and features and protected and priority species.

The main issues in respect of the proposed development will be nesting birds which should not be disturbed in the breeding season (March-August) and roosting bats. However, bats are less likely to use buildings in the town centre where there is excessive light pollution and limited foraging potential and although the River Don offers some foraging potential it is not immediately adjacent to the property and any bats would have to cross the well-lit Corporation Street to access this.

The existing derelict buildings appear to be largely unsuitable for roosting bats because of the age of the building and the partial absence of roofs and exposure to the elements and the urban location with its high light pollution, and lack of immediately adjacent good foraging habitat also indicate poor roosting habitat.

A bat survey has been submitted with the application and the conclusions and recommendations have been considered acceptable. An emergence / re-entry survey was also carried out and the results submitted. No roosting bats were observed during the surveys, and low levels of bat activity were recorded comprising mainly common pipistrelles, unidentified pipistrelles and *Nyctalus sp.* Sporadic commuting and foraging passes were seen over and through the building, although the majority of activity was heard but not seen.

The report concludes that the proposed works can proceed unrestricted in relation to roosting bats, however due to the poor condition of the building, where works do not proceed within 12 months survey should be repeated to confirm the absence of roosting bats. In addition, to mitigate the loss of a small number of sub-optimal roosting features, it is recommended that five integral bat boxes are incorporated into the new development.

The Council's Ecologist has assessed the findings of the survey and raises no issues with it and indicates that he has no objections to the proposed development from an ecological perspective subject to the relevant conditions.

### Highway considerations

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."*

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."*

No dedicated car parking is proposed with the development as the rear loading bay will be retained as access to the neighbouring commercial businesses on Bridgegate.

Although no car parking is proposed, the site is in a highly sustainable location in close proximity to public transport interchanges with taxi drop off / pick up in the loading bay. It is considered that from a highway perspective there are no issues with the proposed development subject to a condition requiring the submission of a Traffic Management Plan (which shall include details of measures to prevent indiscriminate parking within the site and how access by service vehicles is to be maintained) and a Travel Plan before the site is brought into use.

In light of the above the proposal raises no highway issues and complies with local and national planning policies referred to above.

### Other considerations

Policy WCS7 'Managing Waste In All Developments' requires all development proposals (excluding minor planning applications) to submit a waste management plan as part of the planning application. No Waste Management Plan has been submitted with the application, however it has been agreed that this will be conditioned as there is currently no known end user at this time.

### **Conclusion**

It is concluded that the proposed development makes best use of this underutilised site demonstrating a carefully considered approach in order to achieve a scheme that is befitting of the area. The scheme sits comfortably within its context, replacing the existing, unattractive fire damaged buildings with a vibrant street scene within a prominent area. The proposal encourages regeneration by enhancing the street scene and providing the local area with increased economic benefits. The proposal would have a 'less than substantial harm' on nearby Heritage Assets, though this would be outweighed by the public benefits this instance.

Therefore, with regard to the above the proposal complies with the requirements of the Council's adopted Local Plan policies and provisions of NPPF paragraphs outlined above. Accordingly, the application is 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 **08, 11 and 12** 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 numbers **08, 11 and 12** 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

Demolition of all existing buildings on the site shall be completed within 12 months of the date of this permission, and details of the subsequent site clearance shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the demolition works.

#### Reason

In order to encourage the redevelopment of this key site within the Rotherham town centre and in the interests of the visual amenity of the area.

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)

2976 100, received 30 May 2019

2976 101, received 30 May 2019

2976 102, received 30 May 2019

2976 111 rev A, received 31 July 2019

2976 210 rev C, received 8 August 2019

2976 410 rev B, received 8 August 2019

2976 411 rev B, received 8 August 2019

2976 412 rev B, received 8 August 2019

#### Reason

To define the permission and for the avoidance of doubt.

03

No construction work shall take place above ground level on the proposed building 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

No construction work shall take place above ground level 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

Prior to the development being brought into use, a Traffic Management Plan (TMP) shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented throughout the life of the development. The TMP shall include details of measures to prevent indiscriminate parking within the site and how access by service vehicles is to be maintained.

Reason

In the interests of highway safety.

06

Before the proposed development is brought into use, a Travel Plan shall have been submitted to and approved by the Local Planning Authority. The Plan shall include clear and unambiguous objectives, modal split targets together with a programme of implementation, monitoring, validation and regular review and improvement. The Local Planning Authority shall be informed of and give prior approval in writing to any subsequent improvements or modifications to the Travel Plan following submission of progress performance reports as time tabled in the monitoring programme. For further information please contact the Transportation Unit (01709) 822186.

Reason

In order to promote sustainable transport choices.

Amenity

07

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.

Reason

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

08

Prior to the commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include:

- details of the proposed access to the site for all vehicles associated with the development on the application site;
- traffic management measures during the construction work;
- the location of the site compound and staff parking;
- measures to deal with dust;
- measures to deal with mud in the highway;
- details of proposed hours of construction on/deliveries to the site;

and such further matters as the Local Planning Authority may consider necessary.

The approved measures shall be implemented throughout the construction period.

Reason

In the interests of highway safety and amenity.

Ecology

09

Prior to the development being brought into use, details of bat & bird boxes, including their design and siting, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within a timeframe to be agreed with the Local Planning Authority and shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

In order to make adequate provision for species protected by the Wildlife & Countryside Act 1981 and to mitigate the loss of a small number of sub-optimal roosting features.

10

If no works take place on site within 12 months from the date of this permission a further Bat Emergence / Re-entry Survey shall be undertaken and its findings shall be submitted to and approved in writing by the Local Planning Authority before any works commence on site.

Reason

In order not to disturb any bats or birds and to make adequate provision for species protected by the Wildlife & Countryside Act 1981.

Land Contamination

11

Prior to 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 Authority for review and

consideration. If further intrusive investigations are recommended within the report then these works must be undertaken in accordance with the conclusions and recommendations detailed in the Desk Study Report.

Reason

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

12

Prior to commencement of development and subject to the findings of item 11 above, a Phase II Intrusive Site Investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

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

Reason

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

13

Prior to commencement of development and subject to the findings of item 12 above a Remediation Method Statement shall be provided and approved by this Local 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 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.

14

Following completion of any remedial/ground preparation works a Validation Report should be forwarded to the Local Authority for review and comment. The validation report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has

reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all validation data has been approved by the Local Authority.

#### Reason

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

#### Waste Management

15

Prior to the development being first occupied a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan will need to include:

- 1) information on the amount and type of waste that will be generated from the site;
- 2) measures to reduce, re-use and recycle waste within the development, including the provision of on-site separation and treatment facilities (using fixed or mobile plants where appropriate);
- 3) an assessment of the potential to re-use or adapt existing buildings on the site (if demolished it must explain why it is not possible to retain them);
- 4) design and layouts that allow effective sorting and storing of recyclables and recycling and composting of waste and facilitate waste collection operations during the lifetime of the development;
- 5) measures to minimise the use of raw materials and minimise pollution of any waste;
- 6) details on how residual waste will be disposed in an environmentally responsible manner and transported during the construction process and beyond;
- 7) construction and design measures that minimise the use of raw materials and encourage the re-use of recycled or secondary resources (particularly building materials) and also ensure maximum waste recovery once the development is completed; and
- 8) details on how the development will be monitored following its completion.

The agreed details shall be implemented and thereafter maintained.

#### Reason

To minimise the amount of waste used during the construction and lifetime of the project and to encourage the re-use and recycling of waste materials on site.

#### Landscaping

16

Before the development is brought into use, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.

- The extent of any changes to existing ground levels, where these are proposed.
- Any constraints in the form of existing or proposed site services, or visibility requirements.
- Areas of structural and ornamental planting that are to be carried out.
- 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.

#### Drainage

17

Development shall be carried out in accordance with the recommendations of revision A of the flood risk assessment dated 8 August 2019. Minimum floor level shall be no lower than 26.36m above ordnance datum. Flood mitigation measures shall be incorporated into the development as stated in section 7.24. of the flood risk assessment.

#### Reason

To ensure the development can be properly drained and will be safe from flooding.

18

Above ground development shall not begin until 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, has been 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

#### Reason

To ensure the development can be properly drained.

19

The development shall not be brought into use until a Flood Evacuation Plan has been submitted to and approved by the Local Planning Authority.

Reason

To ensure that the development will be safe from flooding.

### **Informatives**

01

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

- (i) Except in case of emergency, operations should not take place on site other than between the hours of 08:00 - 18:00 Monday to Friday and between 09:00 - 13:00 on Saturdays. There should be no working on Sundays or Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority should be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.
- (ii) Heavy goods vehicles should only enter or leave the site between the hours of 08:00 - 18:00 on weekdays and 09:00 - 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).
- (iii) Best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.
- (iv) Effective steps should be taken by the operator to prevent the deposition of mud, dust and other materials on the adjoining public highway caused by vehicles visiting and leaving the site. Any accidental deposition of dust, slurry, mud or any other material from the site, on the public highway shall be removed immediately by the developer.

02

South Yorkshire Police Architectural Liaison Officer has provided the following advice:

Surveillance

A comprehensive CCTV system should be fit covering all public access and circulation areas including corridors to bedrooms, to be 24/7 monitored by Security.

### Lighting

All entrances to the building should be well lit with a dusk to dawn sensor light incorporating an LED light source.

### Security of Building

- All communal entrance exit doors to be to LPS 1175 SR 2 or better
- Bedroom doors to PAS 24:2016 and approved document B
- All communal areas within the buildings to be lit 24/7 including lift and Stairwells to a standard similar to BS 5489
- All Ground floor glazing to PAS 24:2016
- The opening of a fire door to automatically trigger a CCTV / security response

### 03

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.

### 04

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

Furthermore, demolition works shall be undertaken outside of the recognised nesting bird season (March to August inclusive). Where this is not adhered to, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

### 05

In respect of condition 09 it is recommended that bird boxes are incorporated into the fabric of the building such as:

- 5x starling boxes (e.g. Ecosurv Starling Box or similar)
- 5x swift bricks (e.g. Vivara Pro, lbstock, Woodstock or similar)

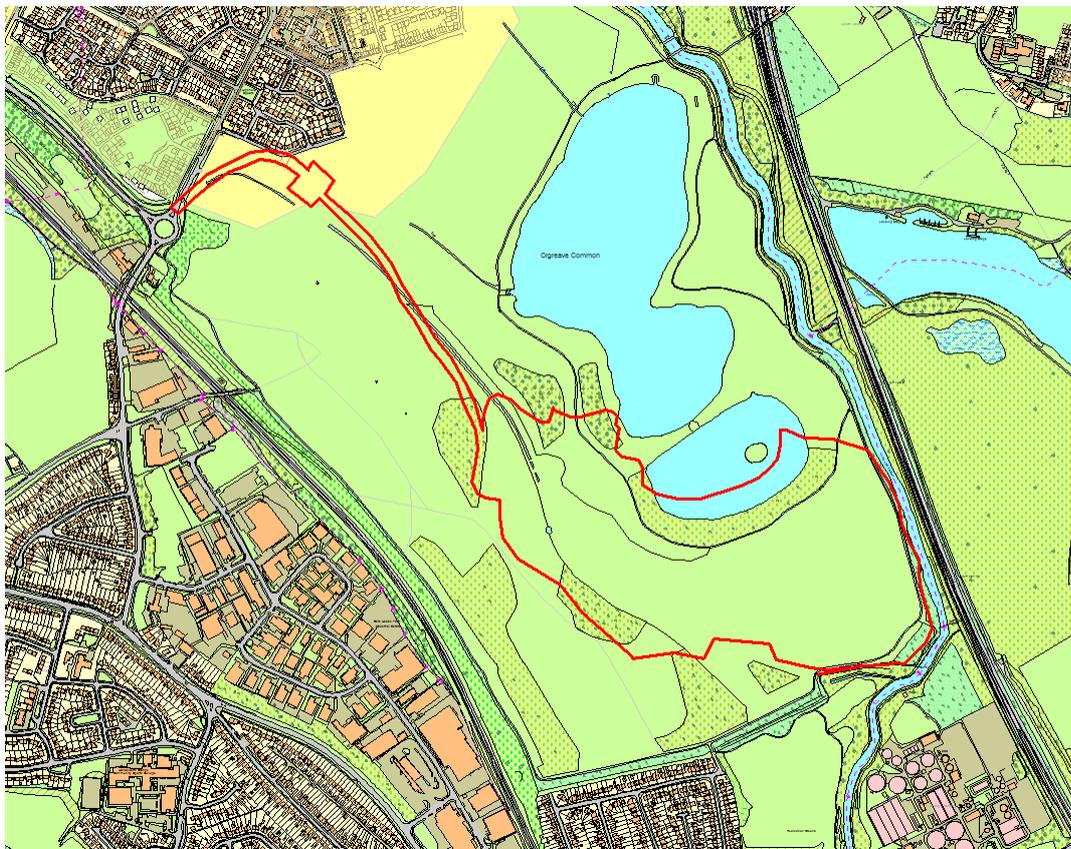
In addition, five integrated bat boxes should be incorporated into the structure (e.g. 1FR Schwegler bat tube, lbstock enclosed bat box "C" and Habibat bat box 001, or similar).

### POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2019/0929</b>
<b>Proposal and Location</b>	Variation of condition 01 to extend the timescale for the importation and movement of material to complete previously approved restoration contours for a further two years to 31st December 2021 imposed by RB2015/1208 at the former Orgreave Reclamation Site, Orgreave Road, Catcliffe
<b>Recommendation</b>	<b>Granted Conditionally</b>

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



### Site Description & Location

The site comprises approximately 23ha of land formerly used for open-cast mining and other industries. It is bounded to the north by the developing Waverley New Community and industrial areas of the Advanced Manufacturing Park, to the east by the River Rother, to the south the Coalbrook estate and to the west the Sheffield to Worksop railway line.

Specifically the application site relates to the southern most area of the wider site adjacent to the existing reservoirs and north of the Yorkshire Water treatment plant. This area of land is vacant and is currently being filled in order to achieve the approved restoration landform.

Access to the site will be gained via Highfield Lane.

## **Background**

The planning history of the site relates to the following:

RB2003/1640: Continuation of opencast coal and reclamation operations without compliance with condition 2 of planning permission R93/1058P dated 21/12/94, together with revisions to approved restoration contours.

GRANTED CONDITIONALLY on 01/07/04

RB2007/2205: Application to extend the time period for completion of the restoration of the site (non-compliance with condition 1 of RB2003/1640 which required completion by May 2008) to May 2009.

GRANTED CONDITIONALLY on 07/02/08

RB2008/1372: Outline application and details of access for a new community comprising 3890 residential units, including 973 affordable units, two primary schools, offices/financial services (400 sq.m), food store (1500 sq.m), pubs, bars, restaurants & cafes, small shops, health centre, community centre, gym, sailing club, hotel, public open space and associated infrastructure including combined heat and power generation plant and construction of roads, cycleways, footpaths and bridleway.

GRANTED CONDITIONALLY – April 2011

RB2008/1918: Application to extend the time period for completion of the restoration of the site (variation of condition 1 imposed by RB2007/2205 which required completion by 15 May 2009) to 31 December 2010.

GRANTED CONDITIONALLY on 19/03/2009

RB2010/1357: Application to extend the time period for completion of the restoration of the site (Variation of Condition 1 imposed by RB2008/1918 requiring completion by 31 December 2010) to 31 December 2013.

GRANTED CONDITIONALLY on 05/09/2011

RB2012/0870: Movement and importation of 450,000 cubic metres of material to complete previously approved restoration contours.

GRANTED CONDITIONALLY on 04/09/2012

RB2015/1208: Movement and importation of 875,000 cubic metres of material to complete previously approved restoration contours, to be completed within 4 years from 31/12/2015, operating hours 07:30-17:30 Monday – Friday

GRANTED CONDITIONALLY on 11/12/2015

## **Proposal**

Planning permission was granted under reference RB2015/1208 for the movement and importation of 875,000 cubic metres of material to complete previously approved

restoration contours. Condition 1 of this approval requires this work to be completed by no later than 31<sup>st</sup> December 2019.

This current planning application seeks to vary this condition and extend the permitted end date of the restoration works to 31<sup>st</sup> December 2021 to achieve the previously approved restoration contours.

In terms of the operators programme, this is detailed as follows:

- Red Materials Ltd will cease the importation of all off site soils by 24<sup>th</sup> December 2020

They will commence:

- Trimming of formation, shaping up, removing infrastructure January 2021 ongoing.
- Spread and place topsoil (excavated from stockpiles) and seeding during April 2021 (weather permitting)
- Cease topsoil placement / trimming of formation / removing infrastructure at locations affected due to bird nesting (Season May 2021 – July 2021)
- Spread and Place topsoil (excavated from stockpiles) and seeding (weather Permitting) during September – October 2021.

It should be noted that the application does not introduce a variation to the previously approved restoration contours nor does it seek to vary the approved volumes of materials required to achieve them.

### **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 *Green Belt* purposes in the Local Plan, for the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS4 'Green Belt'  
CS20 'Biodiversity and Geodiversity'  
CS21 'Landscape'  
CS26 'Minerals'  
SP2 'Development in the Green Belt'  
SP52 'Pollution Control'

### **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.

### **Publicity**

The application has been advertised by way of press, and site notice along with individual neighbour notification letters to adjacent properties. 16 letters of representation have been received including one from Orgreave Parish Council.

Comments are summarized below:

- The Planning Board and Officers should re-visit the previous application, submitted in 2015, for a further 4 year extension, and be questioning why the anticipated levels of imported material stated in that application has not been achieved to have the contours completed and site fully landscaped by Dec 2019.
- Harworth Estates, and its consultants / advisors, should be brought before the planning board to explain why the end of this project keeps being putting back and has not been kept on track in accordance with the statements made in its many previous applications
- What monitoring, if any, has RMBC undertaken in the last 4 years to check why the proposed annual importation of 280,000 cubic metres of material onto site was nowhere near the proposals outlined in the 2015/1208 application?
- When is Harworth Estates going to be held to account for the many applications it has submitted over the years for extensions to the timeframe for completion of this restoration of contours project?
- For the last 27 years we have had to put up with the pollution and dust from the site, the noise from heavy machinery plus the speed that these lorries travel not only on the site where they tip but also on the road they travel on as they do not keep to the speed limits.
- This project has already overrun by several years and now the developer is asking for a further 2 years. Totally unacceptable. We have had enough of the noise and dust generated by earth workings on site. The hill is already high enough and the next 6 months up to the end of the current consent should be used to cap off and landscape what is already there. Orgreave does not need another 2 years of noise from diggers / lorries and the dust created from vehicle movements. Air quality is also an issue that needs to be addressed. Two more years of lorries kicking out fumes into the local area
- Based on the fact that an average construction vehicle will deliver 15m<sup>3</sup> of material, for the total 450,000m<sup>3</sup> to be imported, this equates to a total of 30,000 movements throughout the course of the works. At 75 deliveries per day, this implies a total of 400 working days or 80 weeks to complete all deliveries which fits comfortably within the three year time scale sought, allowing for inclement weather and/or delays to the construction of the sources of material. This extension should have been more than enough to finish this work.

- What guarantee will there be that this will be the final application and the bulldozer will be off the site by Christmas 2021. Enough is enough. It is time for RMBC to stand up to this developer and not grant a further extension. Promises of a golf course and views over the lakes from our homes were just lies peddled years ago to win over the local people.
- I believe the so called contours are designed for the benefit of Harworth estates to enable very lucrative dumping to continue.
- I have low confidence that this work will even be completed in another 2 years' time, and we will once again find ourselves in this situation.
- Neighbours on Coalbrook Avenue cannot hang out washing or enjoy their gardens because of the nuisance caused by the work on this site that has already overrun by 6 years.
- Our property is located adjacent to the area where the groundworks are being moved to, as a result of this activity we are subjected to the noise and dust on a daily basis. As the years have gone on the movement of vehicles has moved ever closer to our property with increased noise, I feel that a further extension of the current planning application, would be unfair to the residents.
- This work was due to be finished this year and we were told there would be paths to walk and disabled paths too, there is none of this as yet there is no disabled access as the father of a disabled adult I think this is disgraceful in this day and age of equality.
- We continue to hear the noise of tipper tailgates clanking shut after unloading, bulldozer noise throughout the day and plumes of dust from lorries travelling on & off site.
- As a regular walker on the Waverley site I do observe lorries adhering to wheel washing on exiting the site, however I have not seen for a long time the use of a water bowser / spraying of the roadways to reduce the levels of dust blowing in the direction of Orgreave.
- The volume of lorries moving on and off site daily are also adding to the high pollution levels and poor air quality in the surrounding area.
- The increasing amount of dust in the atmosphere has caused chest/lung problems to be aggravated, dust settling on cars and windows. There is no longer dust-suppression vehicles as there once was, showing you do not care about local people. The tip was never meant to be as high as it is now, so there is no need to add more garbage.
- The mound of earth now laying there is high enough. We have lived with this building site for a long time and quite frankly I feel that enough is enough. The new Waverley estate have all the lake views and landscaping and the Orgreave side of the land is being used as the dumping ground for the rubbish they don't want them to see.
- As long standing residents surely we have a right to have some pay back for all the upset noise and mess we have lived with for the last 20 years.
- All this rubbish will surely lead to flooding and land slippage.
- I am concerned about the surface water running off this mound. The pathway between the newly formed hillside and the river is constantly flooded from water coming off the mound after inclement weather and unusable. This flow of water is also seeping onto the river banks and in areas they seem to be unstable. Trees have toppled over into the river - is this caused by water flowing off the mound?
- Where are the lovely views, golf courses, running track and nature trail we were promised?

Comments from Orgreave Parish Council are provided below:

- The proposal raises serious concerns regarding what monitoring, if any, has been undertaken by RMBC during the 4 year timeframe granted in the 2015 application to ensure that progress of the restoration was being undertaken in a timely manner for the project to be completed by December 2019 in accordance with the permission granted. We would remind the Planning Committee of paragraph 4.3 of the Statement provided by Wardell Armstrong, agents acting for Harworth Estates, in support of the 2015 application that stated: *'Over the last 10 months, RED has imported approx. 175,000 m3 of inert material sourced "on campus" and 60,000 m3 from "off campus". It is anticipated that this increased level of activity will continue and the application is being submitted on the assumption that 280,000 m3 of inert material will be imported into the application site annually, either from "on campus" or from "off campus" sources.*
- Residents have voiced their concerns that, following the developers past record in failing to complete the work in accordance with the timeframes of previously granted applications, it may seek to submit at a future date a further application for completion of this restoration work past 31st December 2021 to ensure that it still has a local tipping facility available for bringing inert material from any land works that may be planned on any of its other 'on campus' Waverley developments past 31st December 2020.
- Residents in the locality have had to endure nuisance from blasting, traffic noise and dust since the original planning applications, submitted in the 1990's, were granted for opencasting. The promised re-development of the site, after opencasting, to a country park & golf course with views over the lakes from Orgreave are nothing but a distant memory.
- Throughout this restoration project, homeowners in Orgreave and the surrounding areas have constantly been disturbed by the noise of the bulldozer working throughout the day along with the engine noises and clanking of tailgates from the stream of heavy goods vehicles entering and leaving the site daily. These noises can be heard both inside their homes and in their gardens.
- Residents in the vicinity question the need for the last 100,000 m3 to be imported onto site by 31st December 2020, as detailed in the current application. Bearing in mind that the developer has failed to complete the restoration project in accordance with the ample time conditions granted in its previous applications, the Parish Council would strongly urge members of the Planning Committee to undertake a site visit to view the current height levels of the restoration site and question to need to import any further material past 31st December 2019. The present skyline of the newly formed hillside, viewed from the north shore of Lake Waverley forms a natural line with its surroundings. Should members of the Planning Committee give consideration to what looks aesthetically pleasing to the eye now rather than being guided and bound by some contour lines shown on a map from the last century?
- Residents who regularly walk around the Waverley site are also concerned by the amount of surface water flowing off the newly formed hillside onto the surrounding pathways. In inclement weather these pathways are constantly flooded and mudded due to the adjoining drainage ditches not being regularly

maintained and no drainage pipes evident to remove water from the drainage ditches into the adjoining River Rother. Run off water & mud flows over the pathways onto the banks of the River Rother and in some areas these banks are showing signs of instability. Concerns have also been raised regarding the possibility of landslides from the newly formed hillside.

- Should RMBC Planning Committee be minded to grant permission for this proposed application then, in accordance with paragraph 6 of the Supporting Statement submitted by Wardell Armstrong, will its members give serious consideration to imposing the following conditions:
  1. Regular monitoring to be put in place to ensure that the 100,000 cubic meters of inert material required is imported in a timely manner to ensure that all outstanding material is imported onto the application site no later than 31st December 2020.
  2. The period 1st January 2021 to 31st December 2021 is only to be used for final landscaping works.
  3. The developer to provide ongoing evidence that measures are undertaken, in accordance with previous conditions, to reduce the dust generated by the restoration of this application site.
  4. The developer to undertake regular maintenance of all drainage ditches and pathways surrounding the newly formed hillside.
  5. No further applications will be considered by RMBC to extend full restoration of the application site, including final landscaping, past 31st December 2021

## **Consultations**

RMBC - Transportation Infrastructure Service raise no objections to the proposed extension of time for completion of the works.

RMBC - Environmental Health consider that the proposed variation to timescales would not have any impact on any residential occupiers.

RMBC – Landscape have reviewed the submitted information and confirm that no objections are raised.

Highways England raise no objections to the proposed development subject to compliance with previously imposed conditions.

Yorkshire Water have no observation comments with regards to variation of condition 01 as requested

## **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 site has an extensive history in relation to its mining and subsequent restoration. In 1994 the restoration of the site was approved under ref: R93/1058P. This is the original permission for the restoration of the site. Subsequent applications have been approved which include the continuation of the restoration with variations to conditions, including extensions to the time for its completion. The finished contours were approved as part of the original RB2003/1640 permission; therefore the principle of development has been established.

It is acknowledged that there have been changes in policy since 1994 which include the adoption of the Local Plan and the publication of the NPPF, however the site remains a Green Belt allocation and the principle of development in the Green Belt has not significantly altered since this time. It is therefore considered that the movement and importation of material to achieve these approved contours is acceptable and in accordance with Policy CS4 Green Belt and Paragraph 134 of the NPPF which considers engineering operations in the Green Belt.

The main considerations of this application are therefore considered to be as follows:

- Extended Timescale for Completion of the Works
- General Amenity Issues
- Landscape Matters
- Transportation Matters
- Conditions
- Other Matters

#### Extended Timescale for Completion of the Works

This application is required as the existing permission for the movement and importation of material expires on 31st December 2019 and the approved restoration levels have not yet been achieved.

The Planning Statement submitted in support of the application states that a company called RED Materials have been appointed to undertake the approved engineering works and they are currently sourcing the inert material from the wider Waverley development and typically from sources within a 20 mile radius of the application site.

In order to provide some context, the total volume of material required to achieve the approved restoration contours is 1,190,000m<sup>3</sup>. At the time of the 2015 planning application 315,000m<sup>3</sup> of inert material had been imported. Consequently, the 2015 planning application was submitted to import a further 875,000m<sup>3</sup> to achieve the approved restoration contours.

In April 2019 total imports equated to 1,025,000m<sup>3</sup> and it is estimated that by 31 December 2019 a further 65,000m<sup>3</sup> will be imported into the site bringing the total to 1,090,000m<sup>3</sup>. Therefore, this current application to extend the timescale for completion of the restoration works will effectively provide sufficient time to import the remaining 100,000m<sup>3</sup>.

The Applicant has confirmed that the extension to the timescales is required partly due to the fact that the rate at which inert material is imported has recently decreased due to the decline in construction activity in the locality and increased competition. Over the last 12 months, RED has imported approximately 100,000m<sup>3</sup> comprising approximately 50,000m<sup>3</sup> of material sourced from within the wider Waverley site and approximately 50,000m<sup>3</sup> from off site. It is anticipated that this level of activity will continue, and the application has been submitted on the assumption that as at 31<sup>st</sup> December 2019 approximately 100,000m<sup>3</sup> of inert material will need to be imported either from on or off site to achieve the previously approved contours.

Accordingly, and to provide some element of flexibility the application seeks permission for a further 2 years as it is anticipated that the completion of the restoration contours will take approximately 12 months from 31<sup>st</sup> December 2019 and then a further 12 months for the completion of the landscaping works, which may include the importation of sub and top soils.

Whilst the need for this extension in timescales is unfortunate, it is acknowledged that the applicant is bound by the availability of materials within the local area and as such the delay is unavoidable. It is further noted that of the 2 year timescale, only 1 year will be required for the importation and movement of material, the final year will be used to complete the previously approved landscape scheme.

Accordingly, it is considered that the extension of timescales to complete the restoration works are acceptable subject to the consideration of relevant material considerations as reported in the proceeding paragraphs.

### General Amenity Issues

Having regard to general amenity issues, the closest residential properties are located on Coalbrook Avenue at Orgreave, which are located approximately 380m to the south west. Residents and Orgreave Parish Council have raised concerns regarding various aspects of the application, in particular the continued issues relating to noise and dust as a result of the engineering works.

In considering these 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' goes on to state 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, it is noted that there are a number of objections received from local residents relating to dust nuisance as a result of the ongoing works on the site. RED Materials (operators) have stated that they take their responsibilities regarding their obligations to conform to the conditions stated in the 2015 planning consent and under their environmental permit most seriously and refute the claim of the residents that plumes of dust are being emitted as a result of their operations at Waverley.

RED Materials Dust Management Plan includes regular visual monitoring, the use of a tractor and bowser to dampen down during dry and windy weather, strictly enforced site speed limits, sheeted deliveries and a monthly review of all complaints received from the statutory bodies, enforcement agencies or the general public.

Records show that they have received 3 official complaints regarding the emission of air-borne particulates from the site since operations commenced in May 2012 on 15/06/2013, 14/04/2014 and 29/06/2018. Red Materials understand that all these issues were resolved to the satisfaction of the complainants.

Having regard to noise complaints, the official hours that the bulldozer can operate at site are between the hours of 7.30am and 5.30pm. RED have a voluntary arrangement in place not to operate within 500m of any residential properties before 9.00am. In practice, RED have confirmed that the bulldozer starts off from the compound at about 7.45am, reaches the face at around 8.00am and is back in the compound by 3.30pm. It is fitted with a low emission reversing alarm (as required by Health and Safety) and rarely operates constantly throughout the day.

The HGV vehicles delivering to the site carry out the majority of their journey onto the site along an asphalt road and are required to adhere to the speed limit of 10mph. RED acknowledge that the banging of truck tail gates at the moment that a tipper vehicle discharges its load can be a cause for nuisance, however at this present time there is no acceptable alternative.

Having regard to all of the above, it is regrettable that the restoration works could not be completed within the approved timescale, however it is important to note that the volume of material to be imported onto site has not increased and as such the associated vehicular movements have not increased. The movements are therefore less frequent throughout the day but spread along a longer time period.

It is also acknowledged that whilst this planning permission seeks to extend the time limit for an additional 2 years, only 1 year of this will be required for the importation of material, the second year will be used for the planting of the approved landscaping scheme.

Taking all of the above into consideration, the extension in timescale to complete the restoration works will not result in any more material being brought onto site, nor will it increase the amount of vehicular movements associated with the works. Accordingly, it is considered that the level of disruption will not be detrimental to residential amenity and as such the proposed timescales are considered to accord with the provisions of policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

### Transportation Matters

The site access is from the roundabout junction of Highfield Spring and Highfield Lane, which is also the access for the construction traffic associated with the Waverley New Community. This is surfaced with asphalt in order to reduce the potential for mud and other debris to be deposited on the highway at the point where vehicles join the public highway.

In terms of the route the vehicles will take delivering the off site material, they are routed from the A630 Sheffield Parkway via Poplar Way and ultimately Highfield Spring. The material to be sourced from within the wider Waverley site, including AMP will take advantage of haul roads internal to the site and will need only to utilise the section of Highfield Spring between the southern AMP roundabout and the site access.

The delivery movements are less than 75 per day between the hours of 9.00am and 4.00pm which excludes peak travel hours. The Council's Transportation Infrastructure Service have assessed the proposed works and consider the number of vehicular movements to be acceptable. In this regard it is considered that the proposed works are in compliance with the provisions of Policy SP26 'Sustainable Transport for development' and relevant paragraphs in the NPPF.

### Landscape Matters

The type, size and quantum of tree planting in this area has already been agreed under the previous restoration scheme, and a review of the species composition within the scheme was carried out under the 2015 permission given the continued problems sourcing Ash trees due to the Ash dieback outbreak.

All planting will be required following completion of the finished contours and prior to the final completion date of 31 December 2021. In addition any existing trees that are damaged or need to be removed will be replaced following the completion of the works. The Council's landscape department have considered the proposals and acknowledge that the approved planting will not be completed until 2021, however consider that sustainability benefits of sourcing the fill material locally outweighs the length of time it takes to complete the works. On this basis no objections to the proposed works are raised.

### Other Matters Raised by Residents

Local residents have, in their letters of objection also raised concerns regarding surface water run off and the potential for land slips

Having regard to surface water, the situation has not changed as a result of the works. Flood risk and surface water run off were considered by both the Environment Agency and the Council's Drainage department when the original contours were agreed back in 2003. As the proposed extension in timescale will not alter these contours, the potential for flood risk and excessive surface water run off remains unaltered.

Turning to the potential for land slips, materials used and placed within the mound are done so to a specification design to ensure stability. Red Materials have been importing and placing soils within the mound area since 2012 and there have been no reports or evidence of landslides.

## Conditions

A number of conditions were placed on the 2015 permission, many of which required the submission of further information. This information was submitted under an application to discharge conditions under reference RB2016/0245. The conditions below are therefore worded to ensure that the development continues to be carried out in accordance with this agreed information.

## **Conclusion**

Permission has previously been granted for the restoration of the site following open cast mining, which includes approved contours. This current application seeks to extend the timescale for completion of the proposed works for a further 2 years which is primarily due to the lack of available material.

The extended timescale does not increase the volume of material imported onto site and as such the movements associated with the works do not increase and are instead spread across a longer period of time. Accordingly it is not considered that the increase in timescale will have a detrimental impact on residential amenity in accordance with Policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

## **Conditions**

01

The development hereby permitted shall be completed by the 31st December, 2021.

Reason

To enable restoration of the site to a beneficial after use within a reasonable period, in accordance with Policy CS26 'Minerals'.

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)

- Figure 2 Planning Permission Boundary and Land under Applicant's Control – Dwg Ref: NT11912/11/002 dated Sept 2015
- Figure 4 Phasing Plan – Dwg Ref: NT11912/11/011 dated Sept 2015

- Figure 5 Proposed Bund and Cross Section – Dwg Ref: NT11912/11/012 dated Oct 2015

Reason

To define the permission and for the avoidance of doubt.

03

The bund shown hatched in Green on Plan Title: Proposed Bund and Cross Section – Dwg Ref: NT11912/11/012 dated Oct 2015 shall be retained and form part of the completed restoration contours.

Reason

In the interests of the amenity of the locality and in accordance with the provisions of Policy SP52 'Pollution Control.

04

The development hereby approved shall be carried out in accordance with the details contained within the Construction Management Plan dated June 2012.

Reason

In order to ensure the development does not give rise to problems on the public highway, in the interests of road safety

05

The access road as defined in red on plan ref:NT11912/11/011 shall be surfaced with asphalt and retained as such during the lifetime of the works hereby approved. Within 3 months of cessation of the works the land shall be restored to a manner to be approved in writing by the Local Planning Authority.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy CS26 'Minerals'

06

Heavy goods vehicles shall only enter or leave the site from off campus between the hours of 9.00 a.m. and 4.00 p.m. on weekdays.

Reason

In the interests of the free flow of traffic and road safety.

07

Within 6 months of the resumption of works on site a detailed restoration scheme shall be submitted to and approved in writing by the Local Planning Authority, along with revised timescales for its completion. The restoration scheme should include a pro-forma in accordance with the previously approved Site Biodiversity Action Plan & Management Plan. The works shall thereafter be carried out in full accordance with the approved details.

Reason

To enhance the biodiversity gain in accordance with Paragraph 109 of the NPPF.

08

The development hereby approved shall be carried out in accordance with the approved Earthworks Strategy dated January 2015.

Reason

To ensure that the development can be carried out safely without unacceptable risks to workers and future users.

09

No materials shall be excavated from areas where materials have been specifically deposited/engineered for the purposes of protection to human health from residual risk of low level contaminants.

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.

10

All soils/materials imported to site for restoration works shall be in accordance with Appendices 6 and 7 and the Environmental Permit.

Reason

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

11

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 Authority. Works thereafter shall be carried out in accordance with an approved Method Statement. This is to ensure the development will be suitable for use and that identified contamination will not present significant risks to human health or the environment.

Reason

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

12

Within 3 months of the completion of the works hereby approved, a Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The Validation Report shall include details/plans of materials excavated and re-deposited and shall also enclose details of soils imported to site and the results of their chemical testing to ensure all materials are clean and suitable for use.

Reason

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

13

The works hereby permitted shall be carried out in accordance with the details provided within the submitted Noise Report approved under reference RB2016/0245.

Reason

In the interests of the amenity of the locality and in accordance with Policy SP52 Control of Pollution.

14

The contractor shall employ the best practicable means as defined in The Control of Pollution Act 1974 to minimise noise and vibration resulting from his operations and shall have regard to British Standard BS 5228 2009 code of Practice for Noise Control on Construction and Open Sites.

Reason

In the interests of the amenity of the locality and in accordance with Policy SP52 Control of Pollution.

15

Effective steps shall 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.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy CS26 'Minerals'.

16

Wheel washing facilities shall be provided on site in accordance with the details supplied in the approved Construction Management Plan.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity, to give effect to the requirement of Policy 26 'Minerals'.

17

All vehicles entering the site importing waste materials or leaving the site with mineral materials shall be securely and effectively sheeted.

Reason

In order to ensure that the development does not give rise to problems of mud/dust on the adjoining public highway in the interests of general highway safety/amenity,

to give effect to the requirement of Policy CS26 'Minerals'.

18

Except in case of emergency, no operations shall take place on site other than between the hours of 07:30 – 17:30 Monday to Friday only. There shall be no working on Saturdays, 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 Minerals Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason

In the interests of local amenity, to give effect to the requirement of Policy CS26 'Minerals'.

19

There shall be no blasting on site unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure that the development is carried out in an orderly manner with minimal disturbance to the locality and in the interests of local amenity, to give effect to the requirement of Policy CS26 'Minerals'.

20

At all times during the carrying out of operations authorised or required under this permission, effective means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment.

At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Minerals 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.

Reason

In the interests of local amenity, to give effect to the requirement of Policy CS26 'Minerals'.

21

The operator shall provide and install all necessary monitoring equipment to carry out dust incidence measurements in accordance with arrangements and at location(s) to be agreed with the Local Planning Authority. The Local Planning Authority shall have freedom of access to all dust monitoring records and results from the site on request.

Reason

In the interests of local amenity, to give effect to the requirement of Policy CS26 'Minerals'.

22

All machinery and vehicles employed on the site prior to 8:30am shall be fitted with effective silencers of a type appropriate to their specification and at all times the noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities, shall

be minimised in accordance with the guidance provided in British Standard 5228-1:2009 'Code for Practice for Noise and Vibration Control on Construction and Open Sites'.

Reason

In the interests of local amenity, in accordance with Policy CS26 'Minerals'.

Informatives

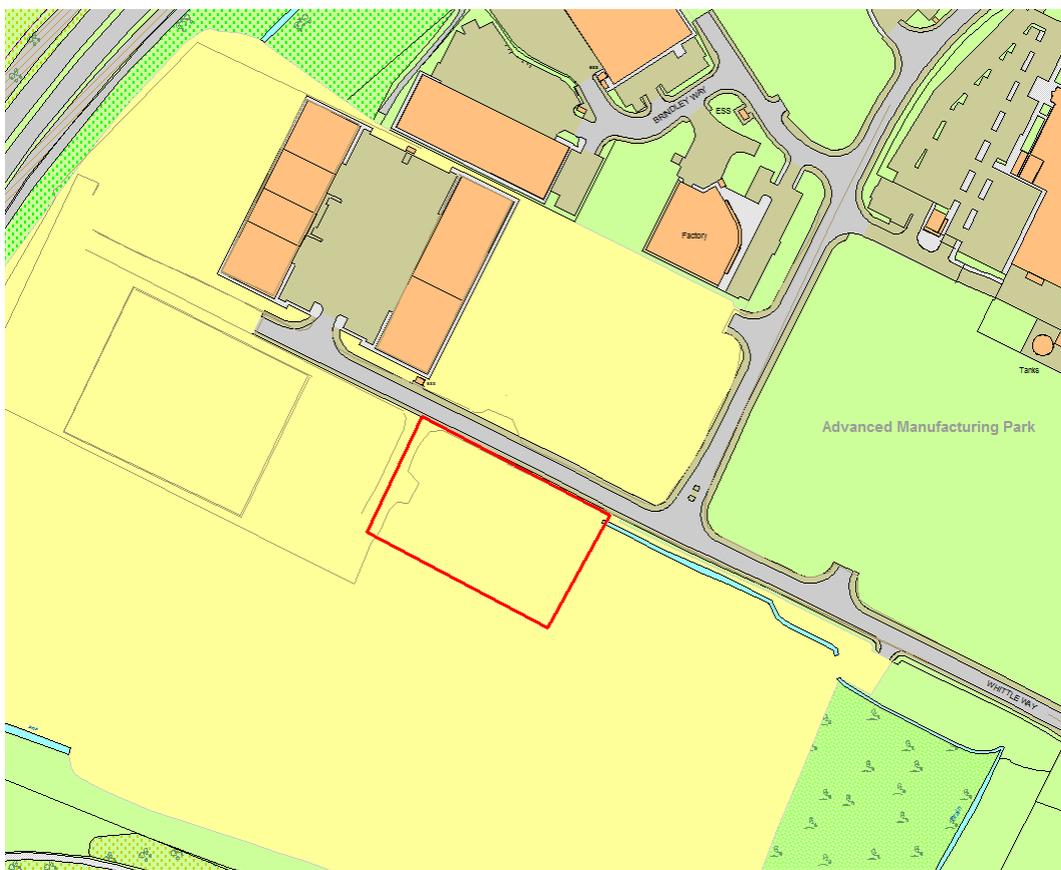
N/A

POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2019/1006</b>
<b>Proposal and Location</b>	Reserved matters application providing details of layout, scale, appearance, landscaping and internal access for the construction of a New Research Facility (Use Class B1/B2/B8) with ancillary B1(a) office floor space and associated infrastructure (reserved by outline RB2019/0574)
<b>Recommendation</b>	Grant Conditionally

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



### Site Description & Location

The application site is approximately 0.65 hectares in size, and forms part of the wider Waverley development site. It currently comprises vacant bare land which has been prepared for development. It is bounded by the A630 (Sheffield Parkway) to the west, existing employment development to the north, north east and east, and vacant development plots to the south with the railway beyond.

### Background

The following applications are relevant to the application site –

RB2015/1429 - Phased engineering works to form level development plateaus –  
Granted Conditionally 02/02/2016

RB2017/0567 - Non-material amendment to application RB2015/1429 to achieve a level development platform – Granted 24/04/2017

RB2018/0361 - Outline planning application for up to 40,000 sqm of Class B1, B2 and B8 floor space with all matters reserved except for details of structure landscaping along the Sheffield Parkway (A630) frontage. – Granted Conditionally 22/06/2018

RB2019/0574 - Outline planning application for up to 40,000 sqm of Class B1, B2 and B8 floor space with all matters reserved except for details of structure landscaping along the Sheffield Parkway (A630) frontage - Granted

## **Proposal**

This application seeks reserved matters consent for the creation of a new research facility providing up to 2,074 sqm of floorspace with first floor office floorspace (up to 10% of the total gross floor area) along with associated access, parking and servicing, landscaping and related infrastructure including a sub station and bin store. The proposal is pursuant to outline planning permission RB2019/0574 with all matters - layout, scale, appearance, internal access and landscaping to be determined as part of the application.

Access into the site is gained via the existing road infrastructure off Seldon Way.

## **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 Industrial and Business purposes in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

### **Core Strategy**

- CS9 'Transforming Rotherham's Economy'
- CS14 'Accessible Places and Managing Demand for Travel'
- CS21 'Landscape'
- CS28 'Sustainable Design'

### **Sites and Policies Document**

- SP1 Sites Allocated for Development
- SP16 Land Identified for Industrial and Business Uses
- SP26 Sustainable Transport for Development
- SP32 Green Infrastructure and Landscape
- SP33 Conserving and Enhancing the Natural Environment
- SP35 Protected and Priority Species
- SP47 Understanding and Managing Flood Risk and Drainage
- SP52 Pollution Control
- SP54 Contaminated and Unstable Land
- SP55 Design Principles
- SP56 Car Parking Layout
- SP57 Sustainable Construction

## **Other Material Considerations**

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.

## **Publicity**

The application has been advertised by way of press and site notice along with individual neighbour notification letters to adjacent properties. No letters of representation have been received.

## **Consultations**

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

RMBC – Landscape have confirmed that the landscaping proposals provided are in accordance with the previously approved design code and consistent with previous schemes and therefore considered acceptable. Accordingly, subject to the submitted landscape scheme being implemented, no objections are raised.

RMBC – Ecology confirm that the landscape design code is being adhered to, however would recommend that a native hedge is planted to increase potential for biodiversity gain.

RMBC – Drainage have confirmed that there is plenty of room below the service yards to accommodate on site attenuation for surface water run off and as such no objections are raised.

Yorkshire Water raise no objections to the proposed development.

## **Appraisal**

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

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and

(c) any other material considerations. - S. 70 (2) TCPA '90.

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

The main considerations in the determination of the application are:

- The principle of the development
- Design and Layout
- Transportation Issues
- Drainage and Flood Issues
- Landscape and Ecology
- General Amenity Issues
- Geotechnical Issues

### The Principle of Development

The principle of development has been established under the outline permission ref: RB2019/0504. This application seeks reserved matters consent for a new research facility falling within permitted use classes B1, B2 and B8. Accordingly, the proposal fully accords with the provisions of Policies SP1 'Sites Allocated for Development', SP16 'Land Identified for Industrial and Business Uses' and CS 9 'Transforming Rotherham's Economy'.

Additionally and under Part 3 Class V of the Town and Country Planning (General Permitted Development) Order, as amended an application can be submitted for a flexible permission which allows the unit to be changed to another use under the same permission without the need for a further application within 10 years from the date of the permission. The applicant could therefore use the unit for any of the uses outlined above within 10 years from the grant of planning permission, however following its continuous use for any single one of the uses for a period of 10 years or more, planning permission would be required for a change of use.

### 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 National Planning Practice Guidance, notes at ID: 26-004-20140306 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.”*

Having regard to the layout of the proposed development, the building has been positioned towards the rear of the plot which not only allows for a more efficient layout but reflects the siting of buildings on adjacent plots. The external space (service yards and car parks) is located to the front of the building and is, as a result readily visible from the new access road, which again is representative of adjacent plot layouts.

The height of the building is dictated by the operational requirements of the unit and is similar in height to the adjacent buildings already established along Brunel Way/ Seldon Way. The building therefore reflects the context of the Advanced Manufacturing Park. The unit will be 9.1m from floor level to underside of eaves and the height of the building from the external ground level to the apex of the roof will be approximately 13m.

The external appearance has been designed to reflect existing buildings on adjacent plots and materials to be used will comprise of horizontally laid sinusoidal metal cladding panels in basalt grey and composite cladding panels in metallic silver.

The main entrance to the unit is located on the North West corner. The construction of the main entrance will consist of contrasting materials in order to provide identification of the entrance and help break up the massing of the elevation treatment. The entrance corners will be in polyester powder coated aluminium glazing and doors at ground floor. A corner feature comprising of metallic cladding/ signage and a feature beam trim unifies the building with the existing neighbouring structures. The bottom of the buildings will be constructed on a brickwork plinth course in a smooth black facing brick. The fire exit doors are proposed to be in polyester powder coated steel in colours to match the surrounding cladding.

In addition to the above it is also proposed to erect a substation along the access road frontage which has a footprint of 3.9m x 3.9m. A refuse and recycling store is also proposed within the south western corner of the service yard which consists of a 2.1m high timber enclosure which will assist in screening the refuse from sight.

Having regard to the above, it is considered that the scheme has been sympathetically designed taking account of the characteristics and constraints of the site and the character of the surrounding area. Therefore the scheme is considered to be of an appropriate size, scale, form, design and siting that would ensure it would enhance the quality, character, distinctiveness and amenity value of the borough's landscapes and will be visually attractive in the surrounding area.

In light of the above it is considered that the design of the proposal is one that is acceptable and would satisfy the relevant design policies and guidance of the NPPF and Core Strategy policy CS28 'Sustainable Design' and Policy SP55 'Design Principles'.

#### 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."*

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

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

In support of the application a Transport Technical Note has been submitted which sets out how the development accords with the findings of the Transport Assessment that was approved as part of the outline permission. It notes that the proposals will represent around 5% of the total land use included in the outline application and the trips generated as a result of this particular development will equate to 14 trips into the site at the AM peak and 9.5 trips out at PM peak.

Having regard to on-site parking, provision is shown for a total of 32 car parking spaces (including 2 for disabled users, located closest to the building entrance), 4 dedicated spaces for motorcycle parking and covered parking for bicycles. This level of provision is within the recommended maximum levels outlined in the Council’s adopted parking standards document. Given the trip rate forecasts, the proposed parking levels will ensure that sufficient parking will also be available for visitor needs and any arrivals/departures outside the peak hours. Furthermore, it will counter any need for on-street parking within the AMP estate.

Finally, an updated Travel Plan has been recently approved by the Council and Highways England in response to a condition placed on the outline application. The success of the plan will be measured against the number of single-occupancy car trips generated by the development and the number of trips made by more sustainable modes, such as: car share, public transport, walking and cycling. If initial travel patterns indicate a higher number of employees driving to work, the aim will be to achieve target trip generation forecasts within five years. This will be achieved through a year on year increase in the use of non-car modes and car share. A package of measures has been identified which include incentive to encourage car sharing and use of non-car modes, specifically cycling.

After five years, the share of car drivers will be retained at the level achieved or reduced further. These targets will not be changed without prior consultation and agreement from the Council’s travel planning team.

A Travel Plan Co-ordinator (TPC) will have day-to-day responsibility for the Plan and will be an employee of the site’s occupiers, chosen to specifically promote and champion the sustainable transport measures contained within the Travel Plan, to ensure that the Travel Plan is implemented and maintained.

Taking all of the above into account, the Council’s Transportation Infrastructure Service have confirmed that the proposed development accords with the requirements of the outline permission and the proposed development will not give rise to any highway safety problems, nor will it have a detrimental impact on the free flow of traffic in the local area. Accordingly the development accords with the provision of Policies CS14 ‘Accessible Places and Managing Demand for Travel,’ and SP26 ‘Sustainable Transport for development’.

## 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."*

Paragraph 163 of the NPPF notes in part that: *"When determining any planning applications, local planning authorities should ensure that flood risk is not increased*

*elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.”*

A report outlining the drainage details for this plot have been submitted as part of an application to discharge conditions on the outline consent. This same report has been submitted in support of this application for reserved matters and confirms that the site is generally flat, as there have been recent earthworks to create a suitable development plateau on the restored mining site. The existing level on the site is approximately 74.0m AOD within the site and the proposed finish floor level of the new industrial unit will be 74.800mAoD. The level on Selden Way to the north gradually falls from 73mAoD to 72.3mAoD along the northern boundary of the site. The development plot is slightly elevated above the road with earthworks embankment to the south side of Selden Way.

In respect of flood risk, the site is located within a Flood Zone 1 area as shown on the Environment Agency’s Flood Maps and as such the risk of flooding is minimal. In terms of the proposed drainage strategy, it is proposed that surface water will be collected by rainwater pipes, gullies and channel drains, where it will be routed to an underground tank, which will provide the required attenuation to restrict rates to 6 l/s during the 30 year return period event. The attenuation tank will provide between 138m<sup>3</sup> and 209m<sup>3</sup> of attenuation volume, ensuring there is no flooding during any rainfall event up to the 30 year return period event. Higher return period events will cause flooding that will be retained within the external areas of the site, and eventually exceedance flows.

Taking the above into account and having regard to the previously approved Flood Risk Assessment which covers the wider AMP expansion land, the proposed development will not impact on flood risk within the wider area and a drainage solution can be adequately provided. Accordingly the development complies with the requirements of Policies CS24 ‘Conserving and Enhancing the Water Environment’, CS25 ‘Dealing with Flood Risk’ and SP47 ‘Understanding and Managing Flood Risk and Drainage’.

### Landscape Considerations

Policy CS19 “Green Infrastructure” states, in part, that: *“Rotherham’s network of Green Infrastructure assets, including the Strategic Green Infrastructure Corridors, will be conserved, extended, enhanced, managed and maintained throughout the borough. Green Infrastructure will permeate from the core of the built environment out into the rural areas...Proposals will be supported which make an overall contribution to the Green Infrastructure network based upon the principles set out below –*

*d. Improving connectivity between new developments and the Strategic Green Infrastructure network and providing buffering to protect sensitive sites.”*

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

Policy SP32 ‘Green Infrastructure and Landscape’ goes onto state in part that: *“The Council will require proposals for all new development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets*

*and networks including landscape, proportionate to the scale and impact of the development and to meeting needs of future occupants and users.”*

A detailed landscape plan has been submitted in support of the application which includes new tree and formal hedge planting along the Seldon Way frontage and along the new access road. Further specimen and shrub planting are proposed between the new trees to add ground coverage. The use and layout of these species are consistent with the approach taken on the opposite side of the road and to the North West at the McLaren development.

The landscape scheme is therefore considered to be acceptable and will provide an attractive setting in this location, whilst maintain the ongoing landscape character of the AMP as a whole.

Consequently, the development accords with the provisions of Policies CS19 “Green Infrastructure and SP32 ‘Green Infrastructure and Landscape’.

#### General Amenity Considerations

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:*

- f. the detrimental impact on the amenity of the local area, including an assessment of the risks to public health.*
- g. 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.*
- h. 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.*
- i. any adverse effects on the quantity, quality and ecology features of water bodies and groundwater resources.*
- j. 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.”*

The application site currently comprises vacant bare land which has been prepared for development. It is bounded by the A630 (Sheffield Parkway) to the west, existing employment development to the north, north east and east, and vacant development plots to the south with the railway beyond.

The site is due to be taken over by UKAEA, (UK Atomic Energy Authority), a UK government research organisation responsible for the development of fusion power. The project proposes to construct a dedicated building which will be used to develop joining technologies for various materials including novel metals and ceramics, and then to evaluate the materials and components under test conditions that will simulate those that would be experienced inside a fusion device.

Condition 25 of the outline consent requires applications for the approval of reserved matters to include a report on the potential for vibration from industrial machinery to affect neighbouring businesses or residential properties. This application is accompanied by a Vibration Statement which confirms that the operations will not cause adverse vibration impacts.

Additionally Condition 24 of the outline permission prohibits the installation of any noise generating plant until full and precise details have been submitted to and approved in writing by the Local Planning Authority. It is noted that no details have been provided as part of this application as the Applicant does not know at this time what plant will be installed. Nevertheless, the condition attached to the outline restricts its installation until details have been approved. This safeguard is therefore considered to sufficient to protect the amenity of nearby residents and businesses should any noise generating plant be installed in the future.

In consultation with the Council's Environmental Health Officer, the proposed development is considered to be acceptable and will not give rise to any loss of amenity in respect of noise and vibration. As such the development accords with the provisions of Policies CS27 'Community Health and Safety' and SP52 'Pollution Control'.

## **Conclusion**

Having regard to the above it is concluded that subject to conditions the proposed development would raise no issues and would comply with the requirements of the relevant local planning policies and the provisions of the NPPF. Accordingly, the application is recommended for approval

## **Conditions**

01

The development hereby approved must be begun not later than five years from the date of this reserved matters application.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990 and to comply with the conditions of the outline application RB2019/0574

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)

- Proposed Masterplan - 13204C-110H
- Proposed Site Plan - 13204C-111H
- Proposed Ground Floor Plan - 13204C-112B
- Proposed First Floor Plan - 13204C-113B
- Proposed Elevations - 13204C-115C
- Proposed Roof Plan – 13204C – 114A
- Proposed Substation – 13204C-117A
- Proposed Tenant Substation – 1320C-118B
- Proposed Fencing Details – 13204C-120B
- Proposed Cycle Shelter – 13204C-121B
- Proposed Refuse Store – 13204C-122
- Kingfisher Lighting Plan
- Landscape Context Plan - V13204C\_L01D
- Landscape Plan - V13204C\_L02B

Locations of Bird Nesting Facilities – 13204- PL115A

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted Materials Samples Document – MS01A dated 31/05/2019 . The development shall thereafter be carried out in accordance with these details.

Reason

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

04

The perimeter fencing and gates hereby approved shall be powder coated in RAL 7037 – Dusty Grey or RAL 7024 – Graphite Grey’ and shall thereafter be as such retained for the lifetime of the development.

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Policy CS28 ‘Sustainable Design’.

Highways

05

Before the development is brought into use the car parking area shown on the Proposed Site Plan - 13204C-111H 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

## Landscape

06

Landscaping of the site as shown on the approved plan (Vector Design Concepts drawing no. V13204C-L01Rev D) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

### Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Policies CS19 "Green Infrastructure and SP32 'Green Infrastructure and Landscape'.

## Land Contamination

07

Gas protection measures shall be incorporated into the development hereby approved, comprising:

- a) Reinforced concrete cast insitu floor slab (suspended, non-suspended or raft) with at least a lapped and taped minimum 1200g membrane
- b) a beam and block or pre cast floor slab with a lapped and taped minimum 2000g membrane; and
- c) under floor venting or pressurisation in combination with either of (a) or (b) above depending on use
- d) All joints and penetrations shall be sealed

### 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.

08

In the event that subsoil's / topsoil's are to be imported to site for soft landscaping works then these soils shall be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination. If materials are imported to site then the results of testing thereafter shall be submitted to and approved in writing by the Local Authority.

### Reason

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

09

A design classification of DS-4 and the responding aggressive chemical environment for

concrete (ACEC) class of AC-4 shall be used for all sub surface concrete in the development, due to the elevated soluble sulphate content within the soils and made ground across the site.

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.

10

The installation of water supply pipes serving the development hereby approved shall consist of Yorkshire Water specified "barrier pipes" made from PE 100-RC with an additional protection layer made from polyethylene PE, plus a resistant KIWA-certified aluminium barrier layer supplied by approved suppliers Egeplast, Wavin, Radius or GPS.

Reason

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

11

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 shall thereafter be carried out in accordance with an approved Method Statement. This is to ensure the development will be suitable for use and that identified contamination will not present significant risks to human health or the environment.

Reason

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

12

Following completion of any required remedial/ground preparation works, a Verification Report shall be submitted to the Local Planning Authority for approval. 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.

**POSITIVE AND PROACTIVE STATEMENT**

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

<b>Application Number</b>	<b>RB2019/1009</b>
<b>Proposal and Location</b>	Erection of portal framed retractable roof structure with associated external seating at 115 The Courtyard, Bawtry Road, Wickersley
<b>Recommendation</b>	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 site is located within the allocated Wickersley District Centre and is accessed via a private road off Batwry Road. It forms part of an existing courtyard which is currently used as an informal outdoor seating area associated with the adjacent A4 use. It is a relatively flat site and has a number of tables and chairs, together with 3 large retractable umbrellas.

The uses surrounding the site include food and drink and retail at ground floor, whilst residential units are provided above.

## **Background**

The following applications are relevant to this property and proposal:

RB2005/2323 - Change of use of a building to class A3 (restaurants & cafes) for use as extension to existing premises Granted 31/01/2006

RB2006/1378 - Continuation of use of restaurant/café with variation to condition 10 (opening hours) imposed by RB2005/1120 to allow opening hours of 0900 to 0030 hrs Monday to Saturday and 1000hrs to 0000hrs on Sundays – Granted 31/08/2006

RB2010/0118 - Retrospective application for change of use from restaurant/café (use class A3) to wine bar (use class A4) with variation to Condition 10 (opening hours) imposed by RB2006/1378 to allow opening hours of 0900 to 0030hrs Monday - Thursday, 0900 to 0100hrs Friday and Saturday and 1000 - 0000hrs on Sunday – Allowed on Appeal 20/12/2010

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

## **Proposal**

The proposal involves the removal of the existing 3 large fixed retractable umbrellas to the existing external seating and dining area and replacing them with a new retractable roof structure. The structure will measure 7.3m in width and have a height of 3.7m. It will project into the courtyard by 6.6m and be supported by a series of metal columns.

The roof will be constructed from a multi panelling system which retracts fully to provide an open aspect.

Further enhancements are also proposed to the external seating area within the Courtyard to create a more structured environment than what is available presently on site. This involves the levelling of part of the ground with the creation of a small brick with a steel and glass balustrade surround

It is important to note that no new floor space will be created as part of the proposals and the operational hours remain unchanged from that approved under the 2010 application.

## **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 27<sup>th</sup> June 2018 which form part of Rotherham's Local Plan.

The application site is allocated as the Wickersley District Centre and for retail 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 24<sup>th</sup> 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.

1 representation from the Parish Council and a petition containing names and addresses of 11 different properties has been received objecting to the proposals. The comments are summarised below:

- This application needs to be considered in the context of what is happening to the night time economy of this area. Wickersley has become the 'go to' location for eating and drinking within Rotherham with a significant increase in the number of bars and restaurants establishing and expanding in the last couple of years.
- Wickersley is fast becoming a victim of its own success. It now attracts people from all over Rotherham rather than primarily serving the local community and the growth in late night drinking, in particular, brings conflicts with residential

amenity so that people living close to the centre are increasingly experiencing problems of noise and anti social behaviour, litter, and customer car parking in residential streets.

- This area is currently used in conjunction with the wine bar which is very busy especially at weekends and is open until at least 1am despite a planning condition imposed on appeal in 2010 that requires the premises to close by 12.30 am.
- The license granted to the premises also allows live music inside the premises until 1 am. Local residents frequently complain about not being able to sleep due to the music levels until the early hours of the morning despite a condition on the planning consent that required self closing doors to be fitted to all entrances to and exits from the premises.
- It is clear that, with a covered seating area, the number of customers using that area at all times of the year and until early in the morning will increase. This is especially the case given that the outdoor area will, in future, also be used by customers of the new restaurant which will have doors opening onto that area. This will therefore increase the intensity of noise already experienced by residents living to the rear of this development.
- If such a structure is to be permitted, it should also serve a noise attenuation function so that instead of being retractable, the roof structure should be of permanent, fixed construction designed specifically to prevent noise travelling to nearby residential properties.

## **Consultations**

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

RMBC - Environmental Health: Raise no objections to the proposal

## **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 Wickersley District Centre and within a wider retail allocation. The use of the building and outdoor seating area as an A4 Public House/Wine Bar was established when the Planning Inspectorate allowed the appeal under reference RB2010/0118.

The proposed development does seek to amend this established use, simply to replace existing umbrellas with a retractable roof to allow outdoor seating in inclement weather. Accordingly the principle of development is acceptable and in accordance with the provisions of policies CS29 'Community and Social Facilities' which seeks to support the retention and enhancement of a range of community and social facilities.

#### 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 application site is located within a courtyard which is accessed off Bawtry Road. It is therefore set in a secluded area off the main highway and as such has its own character. The proposal seeks to introduce a steel framed building which has open sides and a clear glass roof, which will replace the existing large umbrellas. The appearance of the structure is modern in design and the applicant intends to powder coat the frame in anthracite grey, which enhances its modern appearance.

Taking the above into account, it is considered that due to its location, together with the design and appearance of the proposed structure, it will not appear out of character in this area and will provide a more permanent structure as a replacement to the existing patio umbrellas. Accordingly, the proposals are considered to accord with the

provisions of Local Plan Policies CS28 'Sustainable Design' SP55 'Design Principles' and relevant paragraphs in 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.'

This patio area has been used as an outdoor seating area since 2010/2011 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 that the Parish Council have asked that this application be considered in the context of other recent applications for A4 uses in the immediate locality and the cumulative impact on residential amenity as a result of the recent popularity of the night time economy in Wickersley. In this regard, it must be noted that this is an established use and the proposals do not seek to increase the area of outdoor seating in this location. Indeed, the Applicant has noted that the current proposal provides considerably lesser coverage than the current umbrellas found on site. This is because the existing umbrellas currently cover the courtyard in their entirety once opened fully. The proposal also provides a much more formal seating structure to the outside area which will reduce standing space, thus reducing the overall capacity in the outside area as a result.

The Applicant also considers that the roof structure itself will act as a sound buffer and absorber when compared to the thin fabric of the umbrellas currently in situ and cumulatively, all of these proposed factors provide a marked enhancement over the current scenario observed on site and will in fact lead to a de-intensification of the application site and therefore reduced noise levels emanating from it.

These points are noted; however it remains the case that the introduction of this more permanent structure will give rise to an increase in the attractiveness of sitting outdoors when patrons would not necessarily do so, i.e. during wet weather.

Accordingly, it is necessary to determine whether the proposed development would increase the frequency of the use to such a degree that it would have a detrimental impact on the amenity of local residents and businesses, to warrant a refusal of planning permission.

In the first instance, it is important to note that surrounding uses include a mix of retail, a hair dressers and other food and drink uses at ground floor and limited residential units at first floor above the units to the north. The proposals do not seek to alter the opening hours and as such, the use is permitted between the hours of 09:00 to 00:30hrs Monday - Thursday, 0900 to 0100hrs Friday and Saturday and 10:00 – 00:00hrs on Sunday.

The Council's Environmental Health Officer has considered the proposals and has confirmed that no formal complaints of excessive noise have been received by the Council. It is noted that a condition which was attached when the appeal was allowed under ref: RB2010/0118 prohibits any music being played or amplified within the open courtyard. This condition remains in place for the lifetime of the development and as such the only noise source would be from the patrons themselves. Furthermore, and as the applicant claims, the structure also has the potential to reduce the noise carried from the site due to its more permanent construction and use of materials as opposed to the existing fabric umbrellas.

Taking all of the above into account, and whilst it is accepted that the erection of the structure will encourage the use of the outdoor seating area at times when the current situation would perhaps prohibit, it is not considered that it would intensify the use to such a degree that it would have a detrimental impact on the amenities of local residents or businesses.

Having regard to the cumulative impact of this proposal, it is acknowledged that a number of applications have been received in recent months for alterations to existing buildings which have established food and drink uses, however it must be noted that this site is located within Wickersley District Centre wherein uses falling within the A3 and A4 categories are considered to be acceptable. Furthermore, it is established that the proposal is solely to provide cover above an existing outdoor seating area will not therefore increase patronage. Accordingly, it is not considered that the proposed development will have a negative impact on the wider Wickersley area by reason of an increase in anti-social behaviour and litter.

Taking all of the above into account it is considered the proposed development would comply with the requirements of Policy SP52 'Pollution Control' and the NPPF paragraph 127.

### Transportation

In consultation with the Council's highway officer, it is considered that the proposed development is minor in nature and 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

### Other issues

Wickersley Parish Council have requested that if such a structure is to be permitted, it should also serve a noise attenuation function so that instead of being retractable, the roof structure should be of permanent, fixed construction designed specifically to prevent noise travelling to nearby residential properties.

Whilst this point is noted, noise from the site is not considered to be a nuisance at present sufficient to warrant a condition requiring the roof to be fixed. The proposed structure is therefore as originally proposed with the option to retract the roof as and when required.

### **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 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)

- Proposed Layout Plan – Dwg No. P05 - dated Oct 2018
- Proposed Elevations Sheet 1 of 2 – Dwg No P06 – dated Oct 2018
- Proposed Elevations Sheet 2 of 2 – Dwg No. P07 – dated Oct 2018
- Roof Design Details – dated 10.06.2019

Reason

To define the permission and for the avoidance of doubt.

**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.

To the Chairman and Members of the  
PLANNING REGULATORY BOARD

Date 29 August 2019

Report of the Director of Planning and Regeneration Service

ITEM NO.    SUBJECT

1            **DEED OF VARIATION IN RELATION TO THE SECTION 106 FOR  
WAVERLEY NEW COMMUNITY**

ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE  
29 AUGUST 2019

**Item 1**

**DEED OF VARIATION IN RELATION TO THE SECTION 106 FOR WAVERLEY  
NEW COMMUNITY**

**RECOMMENDATION:**

**The following report is presented to Members for information. Members are asked to note the proposed amendments to the Section 106 Agreement which relate to School 2, Public Transport and Allotment provision.**

**BACKGROUND:**

The original Section 106 agreement for Waverley New Community places a high number of obligations on Harworth Group (land owner) and the site has always faced significant infrastructure costs. Whilst Harworth Group are committed to providing the necessary infrastructure and facilities needed to support the development of Waverley New Community, it is important that these are phased appropriately, in a way that allows development to continue to come forward on the site in the most effective manner.

The principle of revisiting planning obligations is supported by Central Government both within the National Planning Policy Framework ('the Framework') and Planning Practice Guidance ('PPG') which states that planning obligations can be renegotiated at any point, where the Local Planning Authority and developer wish to do so.

**PROPOSED AMENDMENTS:**

1. Provision of Schools

There is an obligation under the current Section 106 agreement to provide an education contribution on a phased basis. The first phasing of payments has been triggered in respect of the first primary school which is currently under construction and due to open in September 2020.

As reported to Cabinet on 17 December 2018, the view of RMBC's School Planning Admissions and Appeals Service and the Strategic School Organisation group is that the current and long standing S.106 trigger points for the second school are too early on as the full pupil yield from housing will not be realised at that stage. This would have an adverse effect on Waverley Junior Academy on the basis that if the second Waverley primary school

opens too early, there would be significant surplus capacity across both schools until the pupil yield increases impacting on the Academy's ability to deliver a balanced budget as required statutorily (schools are funded from the Department for Education based on places taken up as of the annual October school census). As a result of this, it is proposed to change the trigger points for the next phasing of payments to avoid this. Accordingly, the following revised trigger points are proposed:

- First 5% of the education contribution – any time after occupation of 2,350 (from 1,550) no. dwellings; and
- 45% of the education contribution – any time after occupation of 2,600 (from 1,750) no. dwellings.

These were the triggers agreed by Cabinet on the 17 December 2019

## 2. Transport Contributions - Public Transport Infrastructure

The existing S.106 Agreement sets out that there is £824,000 to spend on Travel Plan measures and at such times that may be approved by the Travel Plan Steering Group. The Steering Group agreed at its 9 July 2019 meeting to allow a sum of £224,000 to be used from the Travel Plan Funding against the provision of the bus station infrastructure.

Additionally, there is £1.46 million of money remaining in the S.106 to be used if necessary, over Phases 2-4 (next 15 years) of the Waverley New Community development for public transport improvements and infrastructure. This money is to be paid to the Management Company and used if necessary. Each phase of development is approximately 5 years and therefore this money equates to approximately £100,000 per year for the next 15 years for public transport improvements or infrastructure, if necessary.

It has been determined via the Travel Plan Steering Group (meeting of 9 July 2019) that the best option moving forward is to divert the £1.46 million towards the provision of public transport infrastructure, namely the bus station which is planned as part of the new mixed use centre development, with payment to be made upfront. This would ensure maximum benefits for the local community over the 30-year development period. South Yorkshire Passenger Transport Executive (SYLTE) have been party to these discussions and raise no objections subject to clarity that buses can reverse out of the bus station without having to negotiate cars entering into the staff car park. To address this point, an amended layout has been submitted which results in a minor alteration to the location of the car park entrance but prevents any bus/car conflicts (this will be regularised via a separate application). Accordingly, and subject to their final agreement, they are content that bus operators will utilise the bus station and the diversion of funds will benefit the community and AMP as a whole.

The expenditure of S.106 monies on these facilities and infrastructure and their ongoing operation and maintenance is wholly in line with the S.106 aims

set out in Schedule 3 of the S.106 Agreement which seeks to invest in necessary public transport improvements and infrastructure.

Additionally, the Deed of Variation provides for the option of the £1.46 million to be spent on the construction of the bus station and associated infrastructure and their ongoing management by Harworth Group.

### 3. Allotments

There is a requirement in the original S.106 agreement to provide 30 allotments on land to the east of the River Rother. Following further review, the proposed location of allotments on this land is not considered to be a suitable location and would not serve a useful purpose. It is divorced from the residential community and with poor access, particularly by vehicles which would be required for maintenance and transporting bulky items. In line with the recent study with Sheffield Hallam University and as part of the wider greenspace strategy for the Waverley site, including the Well Rotherham initiative, Harworth Estates propose to provide raised planters in the centre of the Waverley New Community site which are much more accessible to the local community and can be tended by residents, whilst also ensuring better security through improved natural surveillance. On this basis, the Deed of Variation seeks to remove the requirement to provide the allotments.

## **CONCLUSION**

The proposed amendments to the S.106 Agreement do not fundamentally alter the provision of supporting community facilities and public transport at Waverley. Given the length of time required to build out this site, changes to the agreement are inevitable to take into account the constant evolution of the site.

Revisions to the trigger points towards the payment of costs to support school 2 have been previously agreed by Cabinet and the diversion of funds to contribute towards the cost of a new bus station will secure a long lasting public transport facility. The loss of the allotments is regrettable, however the identified site was never ideal given its physical constraints and the provision of a community garden is considered to be a suitable alternative.

On balance therefore, the LPA consider that the proposed amendments will not negatively impact on the provision of services but instead contribute towards the ongoing success of the site and provide existing and future residents with supporting facilities that they would expect from a development of this nature.