

## PLANNING REGULATORY BOARD

Date:- Thursday, 10 October 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. Deferments/Site Visits (Pages 2 - 3)
6. Development Proposals (Pages 4 - 78)
7. Report of the Assistant Director of Planning, Regeneration and Transport (herewith) (Pages 79 - 83)
8. Updates
9. Date of next meeting - Thursday, 31st October, 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.)*

**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 10<sup>th</sup> October 2019**

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

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**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE 10<sup>th</sup> October, 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>RB2018/1602</b>
<b>Proposal and Location</b>	<b>Erection of 14 no. flats with basement &amp; accommodation in roofspace, access and car parking &amp; associated works at land adjacent 279 Kimberworth Road, Kimberworth</b>
<b>Recommendation</b>	<p>A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <ul style="list-style-type: none"> <li>• A commuted sum of £40,000 towards off-site Affordable Housing</li> </ul> <p>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the following conditions:</p>



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



## **Site Description & Location**

The application site forms a parcel of land on the northern side of Kimberworth Road close to the crossroads of Kimberworth Road and Meadowhall Road to the south-east, which up until 2012 was occupied by a Church and Church Hall. The Church and Church Hall that previously occupied the site covered the majority of the site and was approximately three-storey in height.

When this building was demolished (as a result of a fire), the demolished materials were separated and the masonry was used to infill the existing basement which was located under the church and has created a raised platform level.

The site sits directly opposite the junction of Charnwood Drive, with residential properties to the east, west and south, with Bradgate Park to the north. Immediately to the west is a detached dwelling which appears as a dormer bungalow from the street but is two-storey at the rear, it has an area of hardstanding directly to the rear before a substantial garden which is at a lower level to the house and partially runs along the rear boundary of the application site. A two-storey dwellinghouse sits directly to the east and is in the applicant's ownership.

There is a mixture of dwelling types, styles and age of properties with a varying mix of materials in the immediate surrounding area.

## **Background**

There have been two applications submitted relating to this site:

RB1983/1313 – Toilet extension to church hall – Granted

RB2012/0253 – Application to determine whether prior approval is required for the method of demolition and restoration of the site re: demolition of church and Sunday school – Granted

## 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 construction of a building that would be two-storey with rooms in the roofspace when viewed from Kimberworth Road and three-storey with rooms in roofspace when viewed from Bradgate Park.

The building would be set back from the street with the parking all to the front of site due to the significant land level changes. To the west and rear of the site would be garden areas for the residents.

The building at the front would have three gable features at three-storey high, the central one would be fully glazed, with the two either side having French doors and Juliet Balcony features and there would be four dormer windows on the front roof slope. The rear elevation would have a uniformed design with a mixture of windows and French doors with Juliet Balcony features and six dormers are proposed in the rear roof slope. No window openings are proposed in the side elevations.

To either side of the building there would be steps into the rear garden area and there is also space for a bin and bike store.

The proposal will revert to the original levels on site so that the rear garden level of the proposal would be near to the same level as Bradgate Park to the rear and the front car park will remain as being close to level with the proposed access onto Kimberworth Road.

The front boundary will be reconstructed using the reclaimed ornate gate posts and set either side of the proposed access. The other posts will be further reclaimed from the existing boundary and rebuilt at approximately half way points along the remaining wall. Where practical, the existing brickwork and stone copings will be retained and any additional materials matched.

The building will be constructed using a mixture of render, brickwork and glazed elements.

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

### Phase 1 Environmental Assessment

The report identifies low risks in respect of contamination risks at the site. It recommends that a discovery strategy should be agreed with the Council and a verification strategy should be developed and implemented during the work.

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

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

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

Local Plan policy(s):

- CS7 'Housing Mix and Affordability'
- CS14 'Accessible Places and Managing Demand for Travel'
- CS25 'Dealing with Flood Risk'
- CS27 'Community Health and Safety'
- CS28 'Sustainable Design'
- CS33 'Presumption in Favour of Sustainable Development'
- SP11 'Development in Residential Areas'
- SP26 'Sustainable Transport for Development'

SP52 'Pollution Control'  
SP55 'Design Principles'

### **Other Material Considerations**

Council's Car Parking Standards.

South Yorkshire Residential Design Guide.

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. Three letters of representation have been received, two from local residents and one from a local councillor.

The issues raised by the residents are summarised as:

- The proposal is unattractive and would constitute overdevelopment of the site.
- The size of the proposal is overbearing in relation to neighbouring properties.
- The proposal would not be sympathetic to the surrounding area.
- The number of vehicle movements would adversely affect highway safety.
- The proposed drainage plan shows a 'pumping station' overlooking my rear yard and garden, how would an overflow be accommodated?
- The on-site parking numbers are insufficient and the scheme will likely exasperate the parking problems already felt in the area.
- The proposal will make exiting Charnwood Grove difficult.
- The access to the site on the brow of a blind summit is unsafe and vehicles turning right into the property facing North West on Kimberworth Road are at significant risk of rear impact.

The issues raised by the local councillor are summarised as:

- The style of the project is fine, but the scheme would represent overdevelopment.
- The scheme given its height would adversely impact on the surrounding area.
- The proposal would encroach on the privacy of 287 Kimberworth Road and Robinson Court.

Additional consultation letters were sent out after receiving amended information. One further letter of representation was received from a local resident who had previously commented. The additional comments raised are summarised below:

- There seems to be no plans to reduce the height of the embankment on the Western side of the proposed development near to my property. This completely overlooks my rear yard, bedroom, lounge, kitchen and garden which is approx. 6m below top of embankment.
- What happens in the event of a pumping failure? This has occurred many times in the flats complex on the other side of my property using a similar system and with obnoxious results.

Two Right to Speak Requests have been received from two of the objectors.

### **Consultations**

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

RMBC – Affordable Housing: Have no objections subject to securing a commuted sum towards off-site affordable housing in the Borough.

RMBC – Drainage: Have no objections subject to conditions.

RMBC – Education: No objections.

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

RMBC – Landscape Design Team: Have no objections subject to conditions.

NHS: No objections.

Yorkshire Water: No objections.

SY Police ALO: 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:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) 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 above paragraph is supported by adopted Policy CS33 ‘Presumption in Favour of Sustainable Development’.

The main considerations in the determination of the application are:

- Principle
- Design
- General Amenity
- Drainage
- Highways
- Affordable Housing
- Other considerations

### Principle

The site is allocated for residential purposes within the Council’s adopted Local Plan.

Policy SP11 ‘Development in Residential Areas’ states areas identified for residential shall be primarily retained for residential uses and all residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies. Accordingly, given the residential allocation of the site, the proposal would be compatible with the land use of the site and the adjoining residential uses; as such the principle of development is acceptable.

### Design

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.

Additionally, 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.

With respect to the layout the parking has been located to the front of the site due to the level difference between the front and the rear and this has been incorporated into the design of the building where the rear elevation has a lower ground floor.

The building is located back from the street in the centre of the site and although higher than the buildings either side, the set back from the road, the land level changes and relationship would ensure that the building does not appear overly dominant in the streetscene or at odds with the buildings either side. There are also other developments along Kimberworth Road comprising of apartments, as such the scheme would not introduce an incongruous feature.

The design of the building with projecting gable features, a mix of brickwork, render and glazed elements offers some architectural interest when viewed from the street and the dormer windows are of a modest size that sit comfortably on the front roofslope. The design features and mix of materials will help minimise the impact of the development and help reduce its massing.

The scheme also includes a landscaped area to the rear for residents to use, small pockets of landscaping and an attractive boundary wall to the front.

The accommodation within the building complies with the internal room sizes outlined in the South Yorkshire Residential Design Guide; there is sufficient parking spaces and outdoor amenity space. Accordingly, the scheme would not constitute overdevelopment of the site.

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.

#### General amenity

The NPPF at paragraph 127 states developments should create a high standard of amenity for existing and future users. In addition NPPF paragraph 180 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.

Policy CS27 'Community Health and Safety' states new development should be appropriate and suitable for its location, by considering, amongst other factors, the impact of existing sources of pollution and the potential for remedial measures to address problems of contamination. Policy SP52 'Pollution Control' states development proposal that are likely to be exposed to pollution will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect amenity.

The main issue in respect of impact on amenity is the impact of the proposed building on the amenity of the occupier of no. 287 Kimberworth Road whose rear garden 'dog-legs' along part of the application site's rear boundary. The rear garden of no. 287 Kimberworth Road sits at a lower level. The garden is relatively level and well maintained and used.

During the application process the siting of the building has been moved eastwards towards no. 279 Kimberworth Road so that the rear habitable room windows of the building are moved further away from the rear garden of no. 287 Kimberworth Road so that the main outlook is over Bradgate Park.

The latest plans show that on a 45 degree line the nearest part of the rear garden of no. 287 would be approximately 9 metres away. Whilst this would be less than the guidance outlined in the South Yorkshire Residential Design Guide which requires a minimum of 10 metres between habitable room windows and boundaries with neighbouring properties, a cross sectional plan shows that when stood up viewing out, direct views into the garden due to the splayed nature of the building in relation to the garden and the level differences would exceed 10 metres. It is therefore considered that the proposed development for the reasons set out above and subject to additional boundary treatment would not give rise to significant levels of overlooking that would impinge the amenity and quality of life for the neighbouring occupants.

Furthermore, by moving the building further away, together with land levels the building would not appear overbearing or oppressive when viewed from the garden of no. 287 Kimberworth Road.

In addition to the above, it is considered that the building is a sufficient distance from the front elevations of properties on the opposite side of Kimberworth Road and there would be no detrimental impact on the amenity of the occupants of no. 279 Kimberworth Road.

Therefore, with regard to the above it is considered that on balance the proposed development would not adversely affect the amenity of future residents of the proposed apartments or the amenity of existing neighbouring occupants.

### Drainage

The site is not in a flood risk area and is less than 1ha therefore a flood risk assessment is not required. It is however a major application and subject to the SuDS procedures.

Initially limited drainage information was submitted with the application and although it is sometimes acceptable to defer the submission of drainage details subject to planning conditions, as a minimum an outline design or drainage strategy is required before planning permission is granted.

After discussions with the Council's Drainage Engineer the applicant has provided additional information in respect of drainage. The information supplied is acceptable and subject to conditions the Council's Drainage Engineer has no objections to the proposal.

It is noted that an issue has been raised by some of the objectors in respect of the proposed on site pumping station and what would happen should it fail. The Council's Drainage Engineer has stated that pumping stations built to modern standards have telemetry to inform of a pump failure and foul pumping stations are required to have 24 hours emergency storage capability to give time to carry out repairs or make other arrangements such as temporary pumping. The effectiveness of these measures is dependent on having a robust maintenance plan.

The application stated that the foul pumping station was to be adopted by Yorkshire Water, but the outline proposal was both impractical and not to adoptable standards. The location of the pumping station on the lower level of the development precludes adoption, so it will remain private. Further details of the foul drainage including the pumping station are required for approval, and a maintenance plan will be required. Both these requirements are stipulated in the recommended drainage condition. Due to the importance of ensuring an acceptable drainage scheme, the condition requires that the scheme is approved before work begins on roads or dwellings.

### 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 application proposes a single access / egress onto Kimberworth Road with car parking and vehicular manoeuvring space to the front.

The access will be almost directly opposite the junction with Charnwood Drive. The parking area has been located to the front due to the levels of the site which change



dramatically between the front and rear of the site. The parking area provides space for 20 cars, the majority of which will be directly behind the front boundary wall.

The proposal provides sufficient car parking spaces for future residents and is located within a sustainable location in respect of transport due to the site's location on a main bus route.

Cycle parking store is also proposed to be provided.

The scheme therefore provides sufficient parking for vehicles and is within a sustainable location. Accordingly, the Council's Transportation Infrastructure Service has no objections from a highways perspective subject to conditions requiring the applicant to submit details how the use of sustainable / public transport will be encouraged, the parking to be as per the submitted site layout and the hardstanding to be permeable.

Issues have been raised by objectors in respect of parking numbers being insufficient, the access being unsafe and impacting on neighbouring sites and roads. Notwithstanding the issues raised the parking levels are deemed acceptable, the location of the access is considered to be of an acceptable location and width to ensure access to and from the site would not impact on other highway users.

Accordingly, from a highway perspective the scheme would comply with policies CS14 'Accessible Places and Managing Demand for Travel' and SP26 'Sustainable Transport for Development' and a refusal would not be warranted as the scheme would not result in a severe impact on the highway.

### Affordable Housing

The application is for the erection of 14 apartments and policy CS7 'Housing Mix and Affordability' states that on sites of less than 15 dwellings the Council will seek the provision of affordable housing of 25% affordable homes on site or a commuted sum of £10,000 per unit above 10 but below 15 to contribute towards provision off site.

The commuted sum calculation would be £40,000 towards off-site affordable housing provision in the Borough. This commuted sum will require a s106 agreement, in accordance with policy CS7.

### Other considerations

The issues raised by local residents and the local councillor are noted and the majority of the issues raised including impact on host site, surrounding area, amenity of neighbours, drainage and highway safety have been assessed in the above report.

However, the embankment which is referred to in the letters of representations, was created when the previous building was demolished and the materials were separated and the masonry was used to infill the existing basement which was located under the church and has created a raised platform level. This embankment will be removed from the site as the proposals show the levels will return to those when the previous building was insitu.

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 and represents a sustainable form of development.

## **Conclusion**

Having regard to the above, the application represents an acceptable form of development which is of an appropriate design that would not adversely affect the character or appearance of the locality. Furthermore, the proposal would not adversely affect the amenity of existing and proposed residents, would not result in highway safety issues or drainage issues. Therefore, the application would comply with relevant national and local planning policies and is subsequently recommended for approval subject to conditions and the signing of a s106 agreement for the provision of a commuted sum of £40,000 towards off-site affordable housing.

## Recommendation

- A. That the Council enter into an agreement with the developer under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:
  - A commuted sum of £40,000 towards off-site Affordable Housing
- B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the following 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 **10** 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 **10** 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)

JBA.3717.101.C, received 1 April 2019

JBA.3717.102.B, received 3 September 2019

JBA.3717.103.B, received 21 March 2019

JBA.3717.105, received 4 March 2019

Reason

To define the permission and for the avoidance of doubt.

03

No development shall take place above ground level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

Highways

04

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and 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.

05

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

Reason

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

06

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

Reason

In order to promote sustainable transport choices.

Landscapes

07

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 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.

08

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

Reason

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

Drainage

09

Construction of roads or dwellings 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;
- 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.

### Land Contamination

10

Prior to development commencing Intrusive Site Investigation Works will be undertaken to fully determine any potential geotechnical constraints at the application site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be forwarded to the Local Authority for review and comment. Any remedial works identified must be undertaken in accordance with the recommendations of the 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.

11

If any cut and fill earth movements are required at the application site then these works will need to be undertaken in accordance with a detailed earthworks/materials management plan to be submitted for review and comment, to ensure that the geotechnical and any potential contamination risks (from imported materials if required) will be managed appropriately.

### Reason

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

12

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

### Reason

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

13

If subsoils / topsoils are required to be imported to site for soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination. The results of which will need to be presented in the format of a validation report which will be submitted to this Council for review and comment.

### Reason

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

14

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

It is recommended that the development is designed and built to Secured by Design standards. [www.securedbydesign.com](http://www.securedbydesign.com)

## Layout

The rear of the development should be kept secure for residents and maintenance use only. The front of building should have defensible space around it, to deter casual intrusion.

### Surveillance

All landscape should be kept low and trees to have no foliage below 1m to aid natural surveillance. Positioning of trees should be careful not to mask any Lighting Column's.

### Vehicle Parking

The parking areas must be well lit with no dark areas. Consideration should be given to these areas being monitored by CCTV.

### Lighting

Stairwells to be open and well lit, the user should be able to see the next staircase ahead.

All external paths and the car park should be well lit with no dark areas.

The entrance into the development should be well lit and offer as much natural surveillance to the street scene and car park as possible.

### Security of Dwelling

Audio/Visual Access Control should be used on the main entrances to the accommodation.

### 02

The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel. 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

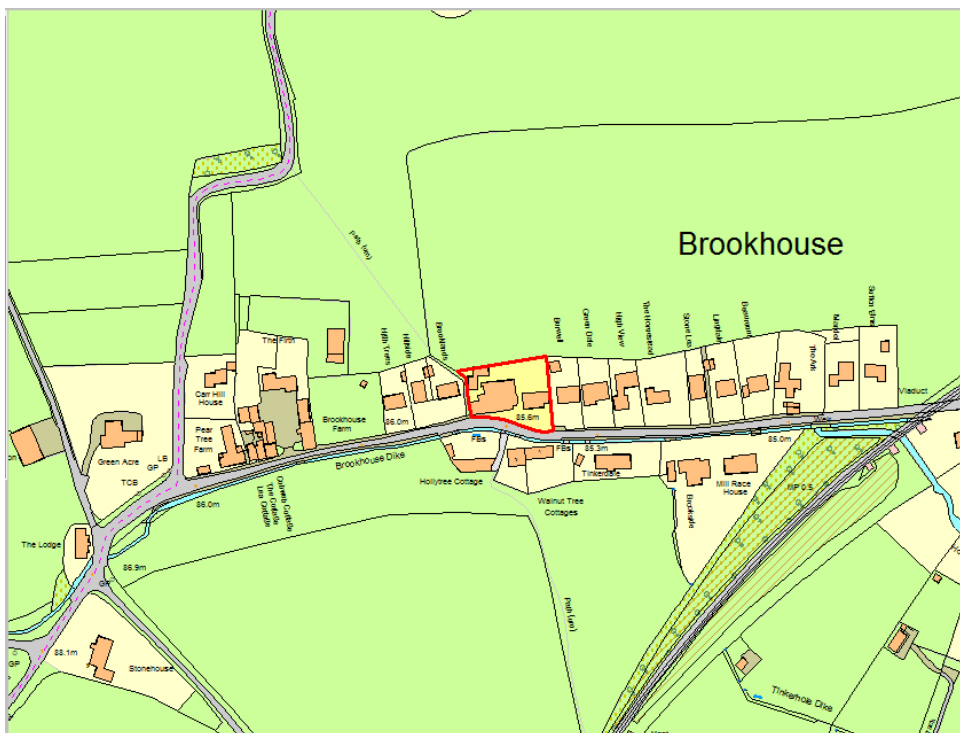
### 03

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.

POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2018/1715</b>
<b>Proposal and Location</b>	Demolition of existing building and erection of 2 No. dwellinghouses at former Cartwheel premises, Main Street Brookhouse
<b>Recommendation</b>	<b>Grant conditionally</b>



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

**Site Description & Location**

The site to which this application relates consists of the former Cartwheel public house which lies off Main Street, Brookhouse and was formerly used as a restaurant and public house, although is currently in residential use. The building itself is of some age, most likely mid C19th, and is constructed of natural limestone with a clay pantile roof and has been extended extensively to the rear, with a number of unsympathetic outbuildings. A new dwelling has recently been erected to the east of the application site on what used to be the car park area belonging to the public house. The new house has a wooden boundary fence which forms the boundary with the site to the east. To the west there is a footpath with a bungalow beyond this.



## **Background**

- RH1968/5536: Change of use of travellers rest to house.  
GRANTED 01/04/68
- RH1968/5707: Use of part of house as restaurant & ancillary accommodation.  
GRANTED CONDITIONALLY 07/10/68
- RH1971/6853: Outline for erection of extension to restaurant.  
GRANTED CONDITIONALLY 04/10/71
- RH1971/6853A: Details of proposed extension to restaurant & living accommodation (reserved by p21614).  
GRANTED CONDITIONALLY 07/02/72
- RB2003/1538: Erection of single storey rear extension to provide new toilet facilities.  
GRANTED CONDITIONALLY 03/11/03
- RB2008/0921: Retrospective application for first floor rear extension, external steps and ballustrade to roof terrace and extension to existing outbuildings to form garage.  
GRANTED CONDITIONALLY 25/07/08
- RB2015/1360: Part demolition and conversion of former public house to 1 No. dwellinghouse & erection of 1 No. detached dwellinghouse -  
GRANTED CONDITIONALLY - 05/08/16

## 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 seeks full planning permission to demolish all the existing buildings on site and to erect 2 no. detached dwellinghouses with attached single garages.

Both houses are to be 9.9m wide, with an additional single storey garage of 3.25m wide, 13.87m deep at ground floor level and 9.7m deep at first floor level. The dwellings are proposed to be 5.7m high to the eaves and 8.15m high to the ridge.

The proposed building materials are to be stone with red pantile roof tiles, with grey windows.

A Bat Survey and Bat Activity Report has been submitted in support of the application and this states that the existing buildings on site recorded low to moderate roost suitability, however during the Bat Activity Survey no bats of any species were recorded emerging from or entering any buildings within the site. The reports concluded that buildings within the application site are unlikely to be used by bats for roosting or as a

place of shelter, as such no impacts on bats and their roosts are predicted via the proposals.

Flood Map details were submitted in support of the application which indicated that the site is within flood zone 1, an area with a low probability of flooding.

### **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 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'

CS14 'Accessible Places and Managing Demand for Travel'

CS20 'Biodiversity and Geodiversity'

CS25 'Dealing with Flood Risk'

CS27 'Community Health and Safety'

CS28 'Sustainable Design'

SP2 'Development in the Green Belt'

SP9 'Previously Developed Sites within the Green Belt'

SP33 'Conserving and Enhancing the Natural Environment'

SP52 'Pollution Control'

SP55 'Design Principles'

SP56 'Car Parking Layout'

### **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.

Consideration will also be had to the guidance detailed within the South Yorkshire Residential Design Guide and the Council's adopted Parking Standards.

### **Publicity**

The application has been advertised by way of site notice along with individual neighbour notification letters sent to 6 adjacent properties.

Objections have been received from the occupiers of 16 nearby properties, along with one from Laughton-en-le Morthen Parish Council – these are summarised below:

- The existing house which has been built is overdominant in the streetscene
- The properties are out of keeping with the village, which is mainly bungalows
- The proposal will look like a block of flats
- Properties too large compared to other properties in the village
- Will the development impact on the footpath adjacent to the site.
- Overlooking of existing properties and loss of privacy
- Increased traffic
- Increased parking problems
- Road too narrow for more development
- Increased traffic problems in construction period
- The historic building should be retained and Listed as it has been a focal point of the village for many years
- Flooding issues
- Issues raised regarding dates on site notices/letters
- The developers had stated that the Cartwheel pub would be retained and the proposal will impact on light and privacy.
- Human Rights Act states that a person has the right to peaceful enjoyment of their home and land.

Laughton-en-le Morthen Parish Council –

- Some of the answers on the application forms are answered inaccurately
- There has been flooding in the area.
- Insufficient parking for 4/5 bedroom properties
- Overdevelopment of the site due to size and scale of properties
- Appearance out of character with the building being demolished and the surrounding properties.

3 residents have requested the Right to Speak at the Planning Board meeting.

## Consultations

RMBC - Transportation Infrastructure Service – raises no objections

RMBC - Drainage – raises no objections

RMBC - Ecologist – raises no objections

RMBC - Environmental Health – raises no objection

## 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 in the Green Belt.
- Layout, design and the impact on the character and appearance of the surrounding area.
- Impact on the residential amenity of neighbouring residents.
- Impact on highway safety.
- Impact on flooding
- Impact on bats
- Other issues raised by objectors

#### Principle of Development

The site is within the centre of Brookhouse which is a washed over Green Belt village. With regard to new development in the Green Belt Local Plan Policies CS4 'Green Belt,' and SP2 'Development in the Green Belt' aim to protect land within the Rotherham Green Belt from inappropriate development as set out in national planning policy.

The NPPF states, in part, at paragraph 145 that: "A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are (amongst others):

*g) "limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority."*

Local Plan Policy SP9 'Previously Developed Sites within the Green Belt' states that: *"In instances where existing activities are located within the Green Belt, proposals for limited infilling (defined as development between existing permanent buildings) or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), may be considered acceptable, provided that they would not have a greater impact on the openness of the Green Belt and the purposes of including land within it, than the existing development."*

*Consideration will be given to the size, volume, massing, scale, position, siting, screening, enclosures, lighting and design of new buildings or structures to ensure that any harm or potential harm to the openness of the Green Belt is minimised."*

Therefore it is considered that the proposed redevelopment of this previously developed site would not be inappropriate provided that it "would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development."

The main consideration is therefore whether or not the proposed redevelopment of the site represents a "greater impact" on the openness of the Green Belt and the purpose of

including land within it than the existing development. In respect of the latter, the NPPF notes at paragraph 134 that: “Green Belt serves five purposes:

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

With this in mind, the development would be contained within the built envelope of the village, and uses land which forms part of an existing development i.e. the existing planning unit, therefore the proposed infilling of this previously developed site within the village would not encroach upon the countryside or compromise any of the above other stated purposes of the Green Belt. Nevertheless, the amount of built development and how it would be distributed across the site would have a potentially greater impact upon openness.

In terms of the impact on openness, paragraph 133 to the NPPF notes: “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

Paragraph 140 adds that “If it is necessary to prevent development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt.” The village is indeed within the Green Belt and the importance of retaining the open character of the village therefore needs to be considered.

On the test of whether the current development represents a “greater impact”, it is noted that the NPPF is silent on how much development represents “a greater impact” in terms of the openness of the Green Belt when developing previously developed sites. However, it is considered that a greater impact is most likely to be represented by a larger resultant volume than the existing built form on the site. A scale of development that equated to the same level of built form on the site could be considered to not have a greater impact on the openness of the Green Belt.

With the above in mind, the applicant was requested to submit volume calculations for the existing buildings to be demolished and the proposed new buildings. It is also noted that the dwelling adjacent to the site approved under permission RB2015/1360 was justified on the basis of the loss of 773 cubic metres of outbuildings and areas of the Cartwheel main building. This volume cannot be used as justification for his application, and it is noted that this volume has not yet been demolished from Ye Old.

The volume calculations show that the existing remaining volume of the building which can be taken into consideration is 1,533 cubic metres. The proposed new dwellings are 744 cubic metres each which is a total of 1,488 cubic metres. As such, the proposed development would lead to a slight reduction in terms of overall volume on the site. Furthermore, this redistribution of volume around the site would reduce the amount of built form behind the former public house building and would fit in with the established grain and form of development in Brookhouse which is characterised by its established building line fronting Main Street.

As previously noted, Brookhouse is a washed over Green Belt village and the impact on openness should not purely be considered in relation to views to the development from the open fields beyond but also from within the village settlement. With this in mind, the development would be contained within the built envelope of the village; it would not encroach upon the countryside and uses land which forms part of an established planning unit. The provision of generous gardens for both properties is further considered to assist in maintaining a degree of openness across the site. The new dwellings would be read in the context of adjoining residential properties and the scale, form and density of the proposed development would be commensurate with other properties within the residential streetscene. It is noted that properties to the west are single storey only, however they are built at a higher land level and so the resultant height of the proposed dwellings is considered in keeping.

Overall, it is considered that the proposed new dwellings would not be larger than the existing built form on the site, however it is considered that the imposition of a suitably worded condition is necessary to remove permitted development rights to the new dwellings in order to control subsequent additional extensions and outbuildings so as to retain the character of the village and to protect the openness of the Green Belt.

In conclusion, for the reasons as stated above it is considered that the construction of the new dwellings is not considered to be inappropriate development in the Green Belt.

### Layout, design and the impact on the character and appearance of the surrounding area.

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 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...establish or maintain a strong sense of place..."

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.”

It is noted that the proposal would lead to the demolition of the existing building on site. Objections have been received in relation to the loss of the building and its impact on the streetscene and the village as a whole. The building is not Listed, nor is it located within a Conservation Area. It is not considered that the building has sufficient merit to warrant its retention on site and justify the refusal of planning permission on this basis.

With respect to the design of the properties, it is considered that their design is commensurate with the surroundings and would be of an appropriate mass and scale to surrounding properties. The applicant has submitted a streetscene plan which shows the proposed dwellings and their relationship with adjacent properties. It is considered that the design and the indicated materials are appropriate and it would fit in with the varied streetscene of Main Street, which is categorised by properties of varying designs and styles. The applicant has stated that the development would be constructed of stone to match the surrounding area with natural clay pantiles.

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

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...” The SYRDG further requires that in order to avoid an ‘overbearing’ relationship between buildings, the minimum back-to-back dimension (between facing habitable rooms) should be 21 metres.

With regards to the impact of the new dwellings upon existing adjacent resident’s amenity, it is noted that they would be located slightly further back than the recently constructed dwelling to the east, and set slightly forward of the existing buildings to the west. The buildings do not come forward of the building line of the existing building, (former Cartwheel pub) however some elements of the buildings will occupy areas of the site that are currently not occupied, although this is not considered to create any adverse impact on the amenity of adjacent residents. The side elevations of the buildings only have en-suite bathroom windows and as a result no overlooking will be created. Additionally, the separation distances between the front elevation of the proposed dwellings and existing dwellings across the road exceed the 21m standard. Taking into account the location, orientation and scale of the proposed buildings it is not considered that they would be overbearing nor would they harm the outlook or privacy of neighbouring residents or future occupiers of the proposed development.

As such, taking account of the above, it is considered that the proposal would accord with the guidance contained within the South Yorkshire Residential Design Guide, advice in the NPPF and the relevant Local Plan policies.

### Impact on highway safety

Local Plan Policy 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.

Policy SP56 'Car Parking Layout' states layouts must be designed to reduce the visual impact of parking on the street-scene; discourage the obstruction of footways and ensure in-curtilage parking does not result in streets dominated by parking platforms to the front of properties.

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."

The proposal has been amended to allow sufficient parking space in front of the garage with appropriate sight lines for highway safety reasons. The level of proposed car parking complies with the requirements of the Council's Parking Standards, however due to the nature of the site it is considered appropriate that a condition is attached to any permission to remove permitted development rights to convert the garage to ensure that they are retained for parking purposes.

Therefore, the proposed layout is acceptable from a highways perspective and would comply with the requirements of the NPPF and Local Plan policies referred to above.

#### Drainage and Flood Risk

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) in appropriate locations, and the use of other flood mitigation measures such as raised finished floor levels and compensatory storage; and
- c. consider the possibility of providing flood resilience works and products for properties to minimise the risk of internal flooding to properties.”

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

The site is located within Flood Zone 1 (low risk), although there is a risk of road flooding at this site. As the proposal is to demolish the existing building and build new dwellings there is the opportunity to set floor levels of the new dwellings at a level which will ensure that there is no risk of them flooding, which the applicant has done to the satisfaction of the Council’s Drainage Engineer. Objections have been received about the potential for the development to increase flood risk elsewhere, although the Drainage Engineer has confirmed that both foul and surface water discharges will be slightly reduced from existing. Also, the existing development is virtually all impermeable surface whereas the proposal is to replace the building with houses which have gardens. For this reason it is not considered that the proposal would increase flooding elsewhere. The proposal is considered acceptable from a drainage aspect and is in accordance with relevant Development Plan policies and the NPPF.

### Ecology

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.”

A Bat Activity Report and Bat survey were undertaken to support the application at the request of the Councils Ecologist. These reports concluded that buildings within the application site are unlikely to be used by bats for roosting or as a place of shelter, as such no impacts on bats and their roosts are predicted via the proposals.

The Council’s Ecologist has assessed both reports and accepts their contents, and suggests that recommendations in the report, to provide intergrated bat boxes, are conditioned if planning permission is granted. It is therefore considered that the proposal would not have any adverse impact on bats at the site, and that the proposal is in accordance with the relevant policies in the Development Plan.

### Other issues raised by objectors

The majority of the objections have been addressed in the report above. An objection has been received on the basis that the new house adjacent to the site was sold on the basis that The Cartwheel building was to be retained and converted. Whilst this has been done up to now the current application has now been submitted to demolish the building, and so the Local Planning Authority have to deal with this and assess the acceptability of the proposal.

A further objection has been received on the basis that the proposed development would impact on existing residents Human Rights, specifically that a person has the right to peaceful enjoyment of their home and land. The application has been assessed as above in accordance with the Council’s Development Plan which contains the relevant policies to be applied to development proposals.

### **Conclusion**

In conclusion, it is considered that the demolition of the former Cartwheel public house building and the erection of 2 dwellings is acceptable in principle as there is no resultant increase in volume on the site, rather a re-distribution through demolition of existing buildings and new build. In this regard the development would not have a greater impact on the openness of the Green Belt than which currently exists at present and as such does not therefore represent inappropriate development in the Green Belt.

Furthermore, it is considered that the development would not be detrimental to the residential amenities of neighbouring residents or future occupiers and would not be detrimental to the visual amenity of the surrounding area. Additionally it is not considered to have any adverse impact in terms of highway safety.

Accordingly it is recommended that planning permission be granted subject to the suggested conditions and informatives as set out below.

### **Conditions**

01

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

Reason

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

02

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

- Site Plan with Sight Lines Ref.1457-ZY-030 Rev received 24<sup>th</sup> September 2019.
- Floor Plans & Elevations Ref.1457-ZY-001 dated June 2018
- Block Plan Ref.1457-ZY-001 dated June 2108
- Proposed Streetscene Ref.1457-ZY-020 Rev A dated August 2019
- Proposed Floor Pland Volume Ref.1457-ZY-010 dated Feb 2019
- Existing Floor Plans Volume Ref.1457-ZY-011 dated Feb 2019

Reason

To define the permission and for the avoidance of doubt.

03

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

- a/ a permeable surface and associated water retention/collection drainage, or;
- b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

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

04

Before the development is brought into use the sight lines indicated on the approved site plan shall be rendered effective by removing or reducing the height of anything existing on the land between the sight line and the highway which obstructs visibility at any height greater than 900mm above the level of the nearside channel of the adjacent carriageway and the visibility thus provided shall be maintained.

Reason

In the interests of highway safety.

05

Finished floor levels shall be a minimum of 49.10m and garage floor levels shall be a minimum of 48.95m, based on the level survey on drawing 1457-001-Rev B June 2018 which uses a local benchmark.

Reason

To ensure that the development will be safe from flooding in accordance with the Local plan and the NPPF.

06

No above ground development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

Reason

07

Prior to the occupation of the dwellings hereby approved details shall be submitted to and approved in writing by the Local Planning Authority of a plan indicating the positions, design, materials and type of boundary treatment to be erected. The approved boundary treatments shall be completed before the dwellings are first occupied and shall thereafter be retained and maintained for the lifetime of the development.

Reason

In the interests of the visual amenity and to prevent overlooking in accordance with the Development Plan.

08

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development as set out in Schedule 2, Part 1, Classes A, B, C, D, and E shall be carried out to the dwellings hereby approved.

Reason

In the interest of protecting the openness of the Green Belt, and highway safety in accordance with the Development Plan and the advice within the NPPF.

09

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

Reason

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

10

Details of the incorporation of two integrated bat boxes shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented on site before the development is brought into use.

### Reason

To provide habitat enhancement for bats in accordance with the Development Plan.

### 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.

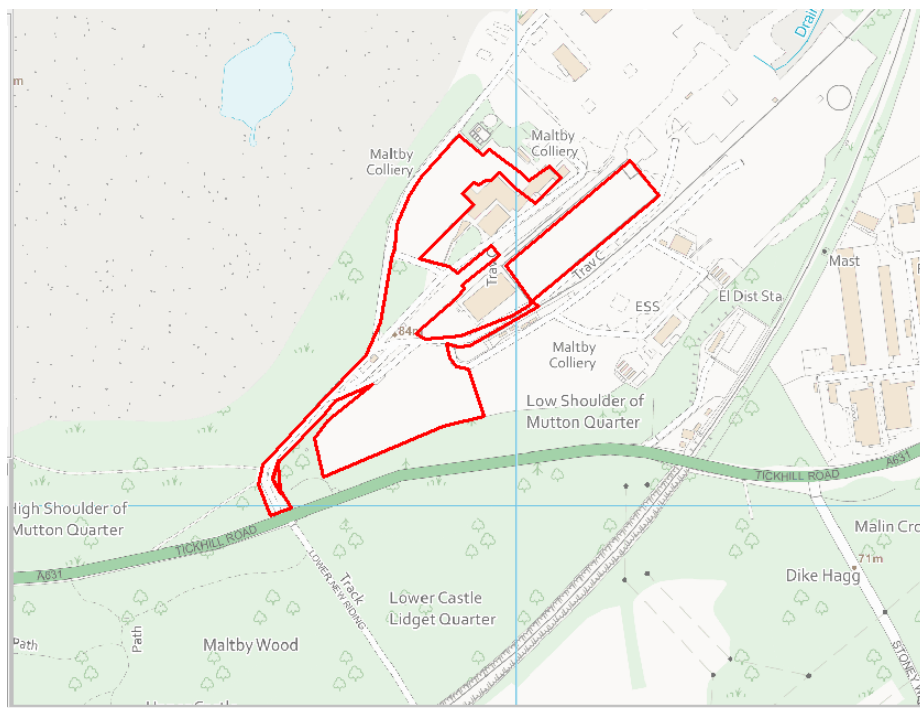
#### 02

Should bats or field signs to indicate use of the building by bats be discovered during redevelopment works, then all works should cease, and a suitably qualified bat ecologist be consulted.

### POSITIVE AND PROACTIVE STATEMENT

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

<b>Application Number</b>	<b>RB2019/0639</b>
<b>Proposal and Location</b>	Demolition of some buildings on site and proposed use of land and buildings for plant, machinery and equipment auction scheme and erection of check-in building, construction of 3.1m display ramp, 2.4m fencing and 6 x 10m lighting columns, all for a 27 year period, at Maltby Colliery Tickhill Road Maltby S66 7HG
<b>Recommendation</b>	<p>(A) That the applicant submits an Agreement under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <ul style="list-style-type: none"> <li>• Replacement planting to mitigate the loss of trees within the application site</li> <li>• Provision of Bat and Bird Boxes</li> </ul> <p>(B) Consequently upon the satisfactory signing of such an agreement the Council grants permission for the proposed development subject to the conditions set out in this report.</p>



This application is being presented to Planning Board as it does not fall within the Scheme of Delegation for major operations.

### Site Description & Location

The application site constitutes an area of 11.1 hectares of land, in the south west part of the pit yard at the former Maltby Colliery Site off Tickhill Road near Maltby. The site is a section of the larger former colliery site which covers 173.1 hectares in total. The application site includes the former Colliery site and access (which also served the wider

Pit Yard and former Maltby Colliery site), and general infrastructure, including the entrance security building, offices and warehouse structure, workshop, plant yard, associated buildings, processing and stocking areas, site access, wheel wash and weighbridge. The site also includes large areas of hardstanding and compacted colliery spoil, along with limited areas of flora including some trees.

The A631 provides access to the M18 junction 1 to the west and the A60 and Tickhill to the east.

The Pit Yard area is surrounded by Green Belt land. The Colliery Tip is located to the north west and north of the site. The Colliery Tip is bounded to the north and north east by Stainton Lane, with Stainton village beyond some intervening agricultural land to the north east. Holme Hall Quarry (also known as Holme Hall Quarries) is located to the north of the Colliery Tip and Stainton Lane.

The site is bound to the south by Maltby Commons & Woodlands, a Local Wildlife Site, with the closest residential property at Woodland Lodge (also known as 'Station House') which is approximately 250 metres distant. There are no public rights of way within the site.

## **Background**

### Relevant Planning History

The site has been the subject of numerous applications relating to its previous use as a coal mining facility. The most recent applications are -

RB2019/0127 - Proposed use for plant, machinery and equipment auction scheme for a temporary 12 month period – granted conditionally 15-03-2019

RB2016/0598 - Maltby Colliery GDO Tip and Stainton Tip Revised Reclamation Scheme over a 6 year and 6 month period, with cut and fill operations, the import of 1.32 million tonnes of suitable fill material and 150,000 tonnes of soil making materials and restoration of the former colliery tip to beneficial after-uses, including amenity grassland, agriculture, public access and nature conservation enhancement, and temporary ancillary and associated activities and the export of the residual stocks of mineral involving up to 65,000 tonnes of coal fines and 20,000 tonnes of deep mined coal to market, at former Maltby Colliery, Tickhill Road. Granted 10-01-2017

### Environmental Impact Assessment

The proposed development falls within the description contained at paragraph 10(b) 'urban development projects' of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 and meets the criteria set out in column 2 of the table in Schedule 2, in other words the area of the development exceeds one 1 hectare and does not include dwelling house development.

A Screening Opinion was adopted on 11<sup>th</sup> December 2018 by the Borough Council as the relevant Local Planning Authority that the development (on the basis of a 20 year permission) is not 'EIA development'. This took into account the criteria set out in Schedule 3 to the 2017 Regulations, and the Council is of the opinion that the development would not be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Whilst the current proposal is for a 27 year period it is not considered that it would be EIA development.

## Proposal

The applicant seeks planning permission for a plant, machinery and equipment auction scheme for a 27 year period on some 11.1 hectares in the south west of the previously developed Pit Yard, including the site access from the A631 Tickhill Road, which would also continue to serve ongoing activities on the wider former Maltby Colliery site.

The auction scheme would primarily use the existing site infrastructure including the entrance security building, weighbridge and wheel wash, along with hardstanding areas. The scheme would include areas for staff and visitor car parking, plant, machinery and equipment display areas. An existing store and office building would be modified and improved to form the Auction

House, with offices, auction room, reception and amenity facilities. A display ramp would be formed to the north side of the Auction House. The existing workshop building on site would be retained for use as a workshop for the Auction Scheme. A new check-in building would be constructed on site. Other former colliery buildings within the site would be demolished. New palisade fencing to be powder coated green at a height of 2.4m is proposed along part of the site boundary, consistent with that installed elsewhere around the Pit Yard.

The Auction Scheme for operational purposes would necessitate the removal of the majority of the existing flora within the site, including most individual trees and approximately 0.5 hectares of broadleaved woodland plantation, some 0.27 hectares of which is shown on the Natural England Ancient Woodland dataset as ancient and semi-ancient woodland. The existing woodland areas adjacent to the wider Pit Yard would be retained. A S106 Legal Agreement is to be submitted to secure mitigation planting at the Colliery Site.

A Lighting Plan has been submitted to show the proposed lighting for the Auction scheme comprising lighting on buildings and 6 freestanding 10m high lighting columns.

Construction operations would take up to 6 months to complete and include the use of a hired in marquee(s) for each auction event (over two days) during this period.

It is proposed to hold up to 10 auction events per annum, with each event lasting up to two days.

The north east part of the site is proposed to be used for display of plant, machinery and equipment. Any works would be carried out in the existing workshop building on the north east part of the site. During the auctions the mobile plant and machinery would be 'paraded' along the new display ramp for viewing from the Auction House, as well as being shown on screens and the internet. The Auction House would include offices, viewing area, toilets and canteen.

Normal working hours would be between 0700 to 1900 hours Monday to Friday, along with Saturdays between 0700 to 1330 hours. Outside of these hours, there would be some deliveries of plant, machinery and equipment to and from the site, along with repairs and maintenance of such goods pre and/or post auction events prior to transfer off-site.

The application was supported by the following documents -



### Planning Statement

Based on the pattern of use at other auction sites in the country, and specifically at Ritchie Bros. Donnington Park premises, each auction averages 950 bidders, of which, 24% or 230 bidders are present on-site (76% bid on-line). In addition to actual bidders, there are others (business associates) who accompany bidders and others who register and attend, but do not bid. In total, around 575 attendees are expected at each auction event over two days, with the majority travelling from within the UK, along with some attendees from Europe and further afield.

The applicants Ritchie Brothers operate on an international basis, their UK base was originally in Leicestershire however the lease expired in 2018 and they began a search for a new site, which identified this application site. The temporary auction as approved in March 2019 (Ref. RB2019/0127) employs approximately 30 full time jobs, and it is envisaged that 40 additional temporary jobs would be provided for each auction event (over two days) up to 10 times a year along with a proportion of such jobs commencing the week before the auction and also during the following week. In addition, there would be indirect jobs and spend in the local economy associated with the Auction Scheme.

The Auction Scheme would involve considerable financial investment of £3.58 million by the landlord and Ritchie Brothers to develop the site, including the modification of an existing building to form the Auction House, construction of the new Check-in Building and use of the existing workshop, along with associated works elsewhere on site, with the demolition of some redundant former colliery buildings. Annual investment by Ritchie Brothers for up to 10 auctions (over two days each) would involve a further spend of around £0.75 million, which over the 27 year life of the venture, would total around £20.25m.

The Planning Statement includes details of the economic impact that the scheme would have on the surrounding area. It concludes that the scheme has the potential to make a significant contribution to the Council's Regeneration aims for Maltby. The use of the site for a 27 year period will result in significant expenditure invested in building and site refurbishment/ improvements. The nature of the development will raise the profile of Maltby and will become a catalyst for investment and economic growth in the local area.

The most significant impacts of the proposed development will be:

- The safeguarding of existing jobs at the former Maltby Colliery and the creation of an additional 40 temporary jobs for each auction event. This would represent an important economic benefit as the local area experiences high levels of employment deprivation.
- Investment of £0.75m in the auction facility per year – over the 27 year life of the venture which would total £20.25m. This money will be spent on a wide range of services which the company will seek to source from the local area where possible.
- Over and above on-site jobs created, the annual expenditure by Ritchie Bros. would support the equivalent of 6 new permanent FTE jobs within the local economy.
- Visitor expenditure generated by those attending each of the auction events (overnight and day visitors) and visitors to the site in the few days preceding each auction event would total £0.604m, which in turn would support an

additional 5 FTE permanent jobs in the broader economy. Over the life of the permission, nearly £20m of visitor expenditure would be generated (£19.92m)

- 28 person years of construction activity, equating to 56 direct full-time equivalent jobs on site over the build period. Recognising that the construction industry is reliant on an extended and varied supply chain, the proposed development will realise total gross employment of 116 full time equivalent jobs (56 direct and 60 indirect and induced);
- Additional GVA from site preparation and construction/refurbishment works would total £1.74m and in terms of operational employment, the temporary jobs created for each auction event translate into 8 FTE which would generate £0.305m GVA per annum;
- £0.191m GVA per annum is generated by the employment created through the expenditure of visitors to the Auction Scheme, and a further £0.229m GVA from employment arising from the annual expenditure that Ritchie Bros. invest to support to support and service the operation of auction events on the Colliery site; and
- Generation of business rates as the Site is brought back into economic use.

In relation to Planning Policy the applicant concludes that the scheme would be consistent with sustainable development, economic, social and environmental objectives of the NPPF and the Local Plan.

#### Design and Access Statement

This concludes that the site is suitable for the auction scheme which has been designed in accordance with the relevant policy guidance as well as taking into account the characteristics of this part of the pit yard on the former Maltby Colliery. Also that the proposal safeguards existing infrastructure to the Maltby Colliery employment site for current future uses including existing railway sidings and common access for all occupiers.

#### Transport Assessment

This concludes that the proposal would not generate large volumes of trips during most of the year and, on the small number of auction days, would be managed to spread traffic volumes through the day. These assumptions have been verified by counts undertaken on the first auction event at the site. Overall volumes of traffic would be less than if the site was developed for a standard B2 Industrial use. As such, the proposed use could not be classed as 'severe' under the NPPF policy test.

#### Landscape Appraisal

The site forms part of a wider plan to redevelop the former Maltby Colliery pithead and is generally well-enclosed by surrounding mature woodland or the adjoining colliery tip landform. Existing mature woodland and trees within the development site would be removed and replaced with new areas of hardstanding.

Adjoining areas of mature trees and woodland would not be affected by the proposed scheme and would continue to enclose the site within surrounding views. Impact on the landscape character of the site itself would be moderate adverse, as a result of woodland and tree losses. Impact on the landscape character of the wider 9b Maltby Colliery sub area of the East Rotherham Limestone Plateau Landscape Character Area, within which the site is located, would be minor negligible adverse, due to woodland and tree losses. In the near future the proposed auction site will be contained by adjoining

development that comes forward as part of the ongoing redevelopment of the wider former Maltby Colliery pithead zone.

Representative viewpoint analysis indicates that impact of the proposed development on wider landscape character and views would be neutral, with the proposed development being very similar in appearance to the existing site.

The loss of existing mature woodland and trees within the site would contravene national and local green infrastructure and landscape policies but is necessary from an operational perspective. These losses should be viewed in light of the proposed auction use being only one component of the wider development of the former Maltby Colliery pithead, which will be accompanied by appropriate landscape measures.

In summary, the proposed development is in keeping with the existing character and setting of the proposed site and would not result in any significant landscape or visual impacts beyond the confines of the site. Where adverse landscape and green infrastructure impacts do occur, as a result of woodland and tree loss, they are not significant in the context of the Borough and would be offset by emerging landscape proposals for the wider former Maltby Colliery pithead redevelopment zone.

### Tree Survey

39 trees and 24 tree groups will require removal as they are situated in the footprint of the structure or their retention and protection throughout the development is not suitable. Most of these trees and groups are lower value, retention category 'C', and include many trees with significant defects or that have suffered from recent mechanical damage. Although individually the trees are of low value their collective removal will result in a moderate loss of amenity value.

The loss of 12 moderate value retention category 'B' trees or groups will result in some loss of amenity, however this loss can largely be mitigated through the planting of suitable trees in more appropriate locations throughout the site and the wider Pit Yard area.

The development of the site provides an excellent opportunity to undertake new tree planting throughout the wider Pit Yard site as part of a soft landscaping scheme. As such, suitable new tree planting has the potential to mitigate for the required tree removals and, in the longer term, has the potential to improve the site's tree cover. The retention of the large and established groups that surround the site will largely shield the removals from the wider public view. The wider colliery site is currently being redeveloped, allowing for larger tree planting schemes within the visually prominent areas of the colliery to the north and west.

### Archaeological Desk Based Assessment

The assessment has confirmed that there are no designated heritage assets within the site. The only nearby designated heritage asset, a Grade II Listed milepost on the A631 Tickhill Road close to the site entrance, will not be affected by the proposed development.

The assessment has also established that the site retains a negligible potential for the presence of any other archaeological heritage assets pre-dating the construction of the Colliery.

There will be no potential impact on any below-ground archaeological assets that might be present. No further evaluation of the site's below-ground archaeological potential is required. No additional mitigation measures are necessary.

### Biodiversity Survey

This concludes that no indirect or direct impacts on statutory sites are anticipated. Other specific surveys are submitted separately.

### Great Crested Newt Survey

This concludes that Great Crested Newts are considered likely to be absent from the site, the Survey Area and waterbodies within 500m of the Survey Area, and no further surveys for Great Crested Newts are currently required on the site or within the Survey Area.

### Bat Survey Report

There were generally low levels of foraging and commuting activity across the site. Bat activity was mostly associated with the north west and central area of the site and around the northern woodland block and associated with landscaped areas around the large reception building. A lighting strategy was recommended to avoid impacting on foraging and commuting bats. Enhancement to roosting habitat for bats is recommended in the form of long term tree roosting opportunities within the plantation woodland in the site and ancient woodland to the east involving the provision of 5 bat boxes in trees.

### Breeding Bird Survey

It recommends that:

- 4 triple entry swift boxes are provided on the northern aspects of buildings at a height of at least 4.5m to be located on the Auction House, workshop or other suitable retained buildings to be agreed.
  
- 2 House Martin nest cups are attached to the workshop in the north.
  
- 15 schwegler general purpose nest boxes be provided in mature trees around the periphery of the site.

### Air Quality Assessment

This concludes that by providing mitigation measures to reduce dust within the construction phase, the proposed development is not considered to be contrary to any of the national and local planning policies.

### Noise Report

An assessment of the existing tranquillity level of the site has been undertaken and identified that the site is not highly prized for its tranquillity and recreational value in terms of noise, and no existing businesses would be restricted by the proposed development.

### Hydro Legacies and Contamination Report

This concludes that the proposed Auction Scheme will not have an adverse impact on surface and groundwater resources. Also that the development will not initiate any adverse effects nor will it increase the risk elsewhere. In relation to contamination the current land use hazard rating is low. There are no significant potential sources of contamination on the site at the present time. The proposed Auction Scheme will not

change this situation as it will not have an adverse impact on human health or groundwater resources.

#### Statement of Community Involvement

Hargreaves have undertaken a series of consultation events and meetings with the local community, Ward Members, Maltby Town Council etc. As a result it concludes that the applicants have undertaken a comprehensive community consultation exercise in line with national and local guidance. The consultation exercise appears to have been well received by the local community with a relatively high level of support being shown for the proposals. One person expressed concern about traffic; three people were generally supportive of the proposals and three people raised issues about adjacent allotment land outside the site.

#### Masterplan for Maltby Colliery

This document relates to the wider Maltby Colliery site and outlines an overall development concept for the site. It has been prepared to demonstrate the vision for the site, and shows how the current planning application proposal on part of the site will be consistent with this vision for the whole site.

#### Waste Management Plan

This provides guidelines and practical information relating to waste reduction and management.

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

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with the Sites and Policies Document adopted on 27<sup>th</sup> June 2018.

The application site is allocated as a Special Policy Area – Former Maltby Colliery. For the purposes of determining this application the following policies are considered to be of relevance:

#### Local Plan Policies –

- CS 9 Transforming Rotherham's Economy
- CS 10 Improving Skills and Employment Opportunities
- CS 14 Accessible Places and Managing Demand for Travel
- CS19 Green Infrastructure
- CS20 Biodiversity and Geodiversity
- CS21 Landscape
- CS23 Valuing the Historic Environment
- CS24 Conserving and Enhancing the Water Environment
- CS25 Dealing with flood Risk
- CS26 Minerals
- CS27 Community Health and Safety
- CS28 Sustainable Design
- CS33 Presumption in Favour of Sustainable Development
- SP 1 Sites Allocated for Development
- SP 18 SPA2 Former Maltby Colliery
- SP 26 Sustainable Transport for Development
- SP 33 Conserving and Enhancing the Natural Environment

SP 34 Sites Protected for Nature Conservation  
SP 47 Understanding and Managing Flood Risk and Drainage  
SP 49 Safeguarding Mineral Infrastructure  
SP 52 Pollution Control  
SP 54 Contaminated and Unstable Land  
Chapter 5 – site development guidelines: 5.91 Allocation Reference: SPA2

BDR Joint Waste Plan (2012):  
Policy WCS7: Managing Waste In All Developments

### **Other Material Considerations**

National Planning Practice Guidance (NPPG).

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

The Local Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

### **Publicity**

The application was advertised in the press, on site and by individual neighbour letters. 6 letters of support have been received, from Sir Kevin Barron MP, Councillor Beaumont and Councillor Price both Ward Members for Maltby Ward, the Coalfields Regeneration Trust, and Barnsley and Rotherham Chamber of Commerce.

The comments are summarised below –

- Sir Kevin Barron MP supports the proposal and has been kept fully informed about the proposal.
- Sir Kevin Barron MP has visited an auction and experienced the professional approach Richie Brothers applied to their business and efficient auction process and as such the permanent occupation of the old colliery site can only be a positive influence on the area and economy.
- Richie Brothers have expressed their desire to be part of the Maltby community.
- The investment can only be a positive for the area as Maltby experiences deprivation scores higher than the national average
- The Auctions that have taken place to date have cause little disruption.
- Employment opportunities increased in the area.
- Improve the profile of Maltby
- Professional organisation and efficiency of the applicants and staff at the auctions held to date.
- Great Public Consultation work by the applicant.
- The proposal will create an estimated £3m of investment into Maltby Colliery, and up to £75,000 in value to the local community spent on ancillary services.

- Comfortable that any increase in traffic will be managed effectively and that the auctions will positively improve the awareness and profile of Maltby and its surrounding area.
- Would bring a vacant site and surrounding area to life again.

The applicant has requested the Right to Speak at the Planning Board meeting.

### **Consultations**

RMBC – Transportation Infrastructure Service: Do not raise any objections to the proposal in view of the recent improvements to visibility at the access of the site onto the A631 Tickhill Road by cutting back vegetation to the right when emerging from the site, and also notes that the possibility of further improvement to visibility involving land outside the application site boundary is being considered by relevant parties.

RMBC - Landscape Design: No objections provided a scheme of replacement planting is secured to mitigate for the loss of scattered interior vegetation.

RMBC – Drainage: No objections

RMBC – Ecologist: No objections subject to conditions

RMBC - Environmental Health (Noise): No objections

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

RMBC – Environmental Health (Air Quality): No objections

RMBC - Tree Service Manager: Comments awaited

The Coal Authority – No objections

Highways England – No comments received

Severn Trent Water: No objections subject to recommended condition

Environment Agency: No objections subject to conditions recommended by the RMBC Land Contamination Officer.

Sheffield Area Geology Trust: No objections

South Yorkshire Archaeological Service: No objections subject to relevant planning condition.

South Yorkshire Mining Advisory Service: No objection

### **Appraisal**

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

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

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

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

- The principle of the development
- Design
- Transportation issues
- Drainage and flood risk issues
- Ecology and biodiversity
- Landscape and tree matters
- General amenity issues – contaminated land, noise and air quality

#### The principle of the development

The proposed use of the site in relation to the auction business is considered a sui generis use under the Town and Country Planning (Use Classes) Order 1987 (as amended), although a significant part of this would be used for the storage and display of equipment.

Policy SP18 'SPA2 Former Maltby Colliery' states that: "*The reuse of land and premises at Maltby Colliery, site allocation SPA2 as shown on the Policies Map, for employment purposes will be supported in principle; in particular, where they utilise the existing rail head and National Grid connections. Appropriate uses will include:*

- a. B2 (general industry)*
- b. waste and energy*
- c. aggregate depot*

*A masterplan for these uses will be required to ensure the comprehensive redevelopment of the site."*

The applicant argues that the policy wording does not exclude other uses, however the supporting text makes clear the strategy for the site:

*"4.78 Uses related to waste, energy and composting are likely to be needed within the plan period and making provision for these on a site which has historically seen non-confirming / bad neighbour uses is considered appropriate. Consequently, the site is not suitable for more general employment uses (B1 and B8 Uses) which may compromise the development of the preferred uses identified in Policy SP 18 'SPA2 Former Maltby Colliery' and could be accommodated in other locations around the borough."*

Notwithstanding this, it is accepted that the proposal would generate a reasonable number of full time and temporary jobs, a number of which would potentially be drawn from the local area. Also investment in the site could have a positive impact in terms of helping to bring the remainder of the site forward.



The application was supported by a Masterplan for the whole of the Maltby Colliery Site, which shows that the proposed development would not compromise the ability of the remainder of the allocated site to accommodate uses as outlined in Policy SP18. It also confirms that the existing rail sidings would be retained and safeguarded for future use.

Policy CS9 'Transforming Rotherham's Economy' aims to protect viable employment sites and support the regeneration and intensification of previously developed land, and Policy CS10 'Improving Skills and Employment Opportunities' aims to improve skills in Rotherham's communities through local employment opportunities. Whilst the proposed use is not in accordance with that outlined in policy SP18, the employment opportunities and the investment in the local economy are considered to be consistent with the aims of the above Local Plan policies.

Policy CS26 Minerals states that non-mineral development proposals will be encouraged to extract any viable mineral resources present in advance of construction where practicable, and where this would not have unacceptable impacts on neighbouring uses. Given the historic use of the site it is expected that prior extraction is unlikely to be possible. In this regard the applicant has submitted additional information in relation to each criteria in the policy, and demonstrates that the proposal is not in conflict with Policy CS26.

Policy SP49 Safeguarding Mineral Infrastructure sets out how proposals for non-minerals development involving, or in the vicinity of, safeguarded mineral infrastructure will be considered. It is noted that the proposal would retain the existing rail connection to the site, and the planning statement recognises that the rail siding provides potential for some plant, machinery and/or equipment to be delivered/from the site by rail in the future. Therefore it is considered that the proposed development would not prejudice the potential for the rail sidings to be used for mineral infrastructure related uses in future during the period of the planning permission.

In view of the above it is considered that the proposals satisfy Local Plan Policy in terms of the principle of the development.

### Design

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 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...establish or maintain a strong sense of place...”

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 development site is contained within the existing Maltby Colliery site, and the site is surrounded by trees which block views into and out of the site.

The existing warehouse/office building is to be retained and used as the Auction House. The building is to be repainted, and numerous windows are to be inserted into the western and northern elevations, to serve office space and to provide a viewing area for the auction parades. Other door openings are also to be provided.

A large ramped area is to be provided to the north of the Auction Building to allow the plant and machinery to be paraded past the Auction House on auction days.

A check in building is to be provided which is a modular building 23m in length, 11m in width and 4.5m high with a flat roof. This is to be clad, Goosewing grey in color with orange parapet banding.

The proposal involves the erection of a marque for auction days through the construction phase until the Auction House has been completed and available for use.

2.4m high palisade fencing, powder coated green in colour, is proposed around much of the application site.. In addition, 6 x 10m high floodlights are proposed within the site.

As part of the development the pump house and existing office building are proposed to be demolished.

As detailed above, the buildings will not be visible from outside of the site, although they will be in keeping with the commercial nature of the site and are considered acceptable and in accordance with the relevant policies.

### Transport issues

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

- a. *Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.*

- g. *The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed.*”

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

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

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

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

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

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

The Transportation Unit note that the submitted Transportation Assessment (TA) indicates that baseline traffic generation has been estimated based on average vehicle movements at the applicant’s previous site at Donnington. Traffic counts were conducted at various locations in the Maltby area in early November 2018. In addition, a survey was undertaken at the first auction held at the Maltby site (temporary permission previously granted under RB2019/0127). This corroborates the assumptions regarding the above, and the overall pattern demonstrates that the auction event created traffic in line with experience at Donnington. The auction site would generate a comparable number of trips over a full day as an industrial site would in the peak hours. As auction days are unusual events, for most of the year the site would generate far fewer trips than if developed for employment uses.

The likely traffic impact has been assessed at Junction 1, M18 and at the site access to Tickhill Road. No capacity issues have been raised, and Highways England raise no objections to the proposal. On auction days some 642 No. movements are anticipated. During a 12 hour day that equates to an increase of some 3% in the A631 west of Maltby, some 8.3% in A631 to the east of Grange Lane and some 11.2% at the site access.

Public transport accessibility is poor with no services to the site. Buses can be accessed from stops in Maltby approximately 1.5 km. to the west.

In relation to road safety, notwithstanding the occurrence of a number of serious road traffic collisions in the vicinity, only one was attributable to the site access. This resulted in a fatality and involved a collision between a motorcycle and a right turning HGV. As a single incident, this suggests there is no pattern of accidental collisions. Since the incident occurred, a reduction in speed limit to 50 mph has taken place along this part of Tickhill Road and visibility at the access has been improved by the cutting back of vegetation. It is also noted that there is the possibility of further improvements to visibility involving land outside the application site boundary is being considered by relevant parties.

Although the site is not well connected with sustainable transport links, given the nature of the business the Transportation Unit does not consider this to be significant.

In this respect it is considered that the proposal is acceptable in Transportation terms, and in compliance with the relevant Local Plan policies.

#### Drainage and flood risk issues

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

*"Proposals will be supported which:*

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

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

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

*"The Council will expect proposals to:*

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

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

The application site is not within an area of flood risk, and the Council's Drainage Engineer raises no objection to the application. Sever Trent Water have requested that if planning permission is granted a condition is attached for them to approve details of surface water and foul sewage. The proposal is not considered to have any implications in relation to drainage or flooding issues. The proposal is therefore in compliance with the relevant Local Plan policies.

#### Ecology/Biodiversity matters

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."*

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;*

*Policy SP34 'Sites Protected for Nature Conservation', states in part, that; "Development that would either directly or indirectly, adversely affect a non-statutorily protected site will not normally be permitted".*

The application has been supported by an Ecological statement, Bat Survey, Breeding Bird Survey and Great Crested Newt Survey all of which have been assessed by the Council's Ecologist, who is happy that the surveys have been carried out correctly and at the optimum time of year. He considers that, provided the recommended mitigation measures in the submitted reports are carried out, the proposals would not have any significant impact on ecological interests.

With this in mind it is considered that the proposals accord with relevant Local Plan Policies as well as guidance within the NPPF.

#### Landscape and trees matters

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."*

The site lies within the East Rotherham Limestone plateau – Maltby colliery (9b) landscape character area which is considered to be of moderate landscape sensitivity. The Green Belt boundary and Sandbeck parkland core (10a) landscape character area which is of High landscape sensitivity lie to the south of the site.

There are existing boundary woodland blocks (largely perimeter) on the site which are protected either by Ancient woodland or Local Wildlife Site status. This boundary woodland vegetation also provides both visual screening of the interior of the site and a valuable Green Infrastructure and habitat link to further larger woodland blocks which lie to the south of the site.

The proposals retain the significant belt of woodland vegetation along Tickhill Road. This woodland belt is important for Green Infrastructure, wildlife and the screening of the site from adverse visual effects. The landscape and visual appraisal does not indicate any adverse landscape or visual effects from the development and the Council's Landscape Unit do not raise any objections to this application on landscape

grounds, provided a scheme of replacement planting can be secured to mitigate for the loss of scattered interior vegetation.

The proposal involved the loss of some tree within the application site to allow the auction to function. It is considered appropriate that mitigation planting is proposed to compensate for the loss of the trees. Due to the size and nature of the application site it is not possible to provide replacement planting within the site. Through the application process the applicant has investigated options to provide the most appropriate mitigation. The applicant has now proposed Compensatory Woodland Planting as mitigation on the east flank of the former colliery tip, outside the land allocated for employment uses. As this is outside of the application site, the applicant is to submit a S106 Legal Agreement to ensure that the mitigation can be carried out (which would have to be signed before any planning permission is released).

Taking the above into consideration the application is considered acceptable on landscape and tree grounds, and is considered to be in compliance with the relevant Local Plan policies.

#### General amenity issues – contaminated land, noise and air quality

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

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

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

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

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

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

The Council's Environmental Health Officers have assessed the submitted Noise Assessment and Air Quality Assessment submitted in support of the application. They note that the site is some distance away from residential properties and as such would not envisage any significant loss of amenity by virtue of noise, air quality.

In relation to Ground Conditions at the site the Council's Land Contamination Officer and the Environment Agency have assessed the relevant submitted information and note that it is unlikely that contamination at the site will have any significant effects on the proposed development. However, it is considered prudent that targeted site investigations are undertaken to determine any possible risks from contamination and to determine any potential geotechnical (land stability issues) and to determine foundation design if required. Therefore in this regard, they recommend that if planning permission is granted conditions should be attached.

The proposal is therefore considered acceptable in in compliance with the relevant Local Plan policies subject to the relevant conditions.

#### Heritage issues

Policy CS23 'Valuing the Historic Environment' states, in part, that *"Rotherham's historic environment will be conserved, enhanced and managed in accordance with principles set out"*

The submitted archaeological desk based study notes that some former colliery buildings are proposed for demolition and recommends that building recording prior to demolition should be undertaken. South Yorkshire Archaeological Service has assessed the information and recommends that this programme can be secured by a suitably worded condition attached to any planning permission. In this respect the proposal is considered appropriate an in accordance with relevant Development Plan policies.

#### **Conclusion**

Whilst the principle of the development is not fully in accordance with the policy SP18 'Former Maltby Colliery', the benefits that the proposal will bring in terms of job creation and inward investment to the area are to be afforded significant weight. Additionally, as demonstrated in the submitted Masterplan, the application site is only part of the former



colliery site and would not prejudice any further future development on the remaining area.

The proposal is for a 27 year period and it is not considered that the scheme would have any adverse impacts in terms of visual and general amenity, highway safety, ecology, landscaping and trees, drainage or historic matters, subject to the relevant conditions and the S106 agreement requiring replacement planting.

Therefore, when taking into consideration the benefits the proposal would bring locally it is considered that the planning permission should be granted for the development.

### **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 11 and 16 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 11 and 16 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.*

01

This permission shall be valid for 27 years only and at the end of that period (unless further permission be granted by the Local Planning Authority prior to the end of that period) the use hereby permitted shall cease and all temporary buildings hereby approved shall be wholly removed and the site restored in a manner to be agreed with the Local Planning Authority.

Reason

In accordance with the submitted information and for the avoidance of doubt

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 Auction House Proposed Floor Plan Ref.0642-EA-A-P105 dated Jan 19
- Proposed Auction House Proposed Elevations Ref.0689-EA-A-P107 dated Jan 19
- Proposed Ramp Details Ref.0689-EA-A-P108 dated Jan 19
- Proposed Ramp Sections Ref.0698-EA-A-P109 dated Jan 19
- Proposed Fence & Gate Details Ref-0689-EA-A-P110 dated Nov 18
- Proposed Lighting Details Ref.0689-EA-A-P111 dated Jan 19
- Check in Building Floor Plan Ref.0689-EA-A-P112 dated Jan 19

- Check in Building Elevations Ref.0689-EA-A-P113 dated Jan 19
- 2.4m Metal Palisade Fence & Gate Details Ref.0689-EA-A-P114 dated Jan 19
- Illustrative Floor Plans & Elevations of the Auction Day Marquee Ref.0689-EA-A-P115
- Planning Boundary Plan Ref.28165 Rev B
- Proposed Layout Plan Ref.0689-EA-A-P103 dated Jan 19

### Reason

To define the permission and for the avoidance of doubt.

### 03

No above ground development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

### Reason

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

### 04

Prior to the commencement of groundworks on site drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

### Reason

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

### 05

Before the development is brought into use the car parking area shown on the approved plan 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.

### 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.

07

Prior to the commencement of groundworks on site a targeted Phase II Intrusive Site Investigation should be undertaken to assess both the potential geotechnical and geo-environmental constraints at the site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

The 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).

Reasons

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

Reasons

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

If subsoils/topsoils are required to be imported to site to raise ground levels and for soft landscaping works, 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 within a Verification Report.

Reasons

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

Following completion of any remedial/ground preparation works (identified within the Phase II Report) a Validation Report shall 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. The site shall not be brought into use until such time as all validation data has been approved by the Local Planning Authority.

#### Reasons

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

No development, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

- The programme and method of site investigation and recording.
- The requirement to seek preservation in situ of identified features of importance.
- The programme for post-investigation assessment.
- The provision to be made for analysis and reporting.
- The provision to be made for publication and dissemination of the results.
- The provision to be made for deposition of the archive created.
- Nomination of a competent person/persons or organisation to undertake the works.
- The timetable for completion of all site investigation and post-investigation works.

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.”

#### Reason:

To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated.

12

Prior to the removal of trees on site details of Bird boxes to be erected as detailed in the Breeding Bird Survey report Sections 6.1-6.4 and timescales for their provision shall be submitted and approved by the Local Planning Authority. The approved details shall be provided on site in accordance with the approved timetable.

#### Reason

To provide habitat enhancement for birds in accordance with the Development Plan.

13

Prior to the removal of trees or demolition of any buildings on site details of Bat boxes to be erected as detailed in the Bat Survey Report Sections 6.7 and timescales for their

provision shall be submitted and approved by the Local Planning Authority. The approved details shall be provided on site in accordance with the approved timetable.

Reason

To provide habitat enhancement for bats in accordance with the Development Plan.

14

Prior to the development being brought into use a Waste Management Plan shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented on site.

Reason

To ensure that Waste is managed at the site in line with Development Plan Policies.

15

Floodlight 6 shall only be used when required during normal working hours of 0700 to 1900 hours and outside of these hours it shall not be illuminated.

Reason

To minimise the impact on the nearby ancient woodland.

16

No operations (including initial site clearance) shall commence on site in connection with development hereby approved until a suitable scheme (Arboricultural Method Statement) for the protection of existing trees to be retained as part of the development has been submitted and its installation on site has been approved in writing by the Local Planning Authority.

All protection measures must fully detail each phase of the development process taking into account demolition/site clearance works, all construction works and hard and soft landscaping works. Details shall include the following:

- Full survey of all trees on site and those within influencing distance on adjacent sites in accordance with BS5837\*, with tree works proposals. All trees must be plotted on a site plan\*\*, clearly and accurately depicting trunk locations, root protection areas and canopy spreads.
- A plan\*\* detailing all trees and hedgerows planned for retention and removal.
- A schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS 3998.
- Site specific demolition and hard surface removal specifications
- Site specific construction specifications (e.g. in connection with foundations, bridging, water features, surfacing)
- Level changes
- A Tree protection plan\*\* in accordance with BS5837\* detailing all methods of protection, including but not restricted to: locations of construction exclusion zones, root protection areas, fit for purpose fencing and ground protection, service routes, works access space, material/machinery/waste storage and permanent & temporary hard surfaces.
- Soil remediation plans, where unauthorised access has damaged root protection areas in the construction exclusion zones.
- Details of the arboricultural supervision schedule.

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

\*Using the most recent revision the of the Standard

\*\* Plans must be of a minimum scale of 1:200 (unless otherwise agreed by the Local Planning Authority)

## Reason

To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of Rotherham's environment, air quality and adapting to and mitigating climate change in accordance with Local Plan Policies CS3: Location of New Development, CS19: Green Infrastructure, CS20 Biodiversity and Geodiversity, Policy CS21 Landscape, Policy CS28 Sustainable Design.

## Informatives

### 01 Drainage

Severn Trent Water advise that although their statutory sewer records do not show any public sewers within the area the applicant has specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and the applicant is advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist the applicant in obtaining a solution which protects both the public sewer and the development.

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

### 02 Great crested newts

In the unlikely event that a great crested newt is found during sites works, works should immediately cease, and the ecologist, or Natural England, be contacted for advice, works should not re-start until advised to do so.

Precautionary methods of work should be employed to avoid harm to common amphibians which may be present within and surrounding the Site.

Updated surveys for great crested newt may be required for any works commencing over two years after these surveys (i.e. May 2020).

### 03 Nesting Birds

It is recommended that any vegetation clearance or building demolition be undertaken outside the bird breeding season. This includes all ground level vegetation as well woodland, scrub and standard trees. The bird nesting season is getting earlier due to climate change and extends from February to August, weather and species depending,

but generally birds have completed breeding by the end of July. Where vegetation clearance/demolition cannot be undertaken outside the bird breeding season, all such areas should be subject to a thorough walkover survey by a suitably qualified ecologist prior to any clearance or disturbance work being undertaken. As pigeons can breed all year round, they may need to be removed under a general license.

### 04 Trees and woodlands

Site clearance has the potential to impact on plantation woodlands, scrub and individual trees where they are being retained. Adhering to the guidelines in British Standard BS5837: 2012 Trees in relation to design, demolition and construction is recommended in situations such as this, in particular implementing measures to prevent root damage, for example, protective measures to prevent heavy plant vehicles, etc from entering the root protection area or dumping heavy materials such as concrete or building waste. This involves identifying the root protection area and erecting a protective barrier around the trees, scrub or woodland to be retained.

With respect to the above, it is recommended that building materials and rubbish cease to be dumped with immediate effect within the root protection area of the woodland to the north west of the site, north of the habitat compartment T9 as shown in the Extended Phase 1 Habitat report. These trees, although outside the site boundary, have bat roosting potential and should not be impacted upon by operatives within the site under any circumstances. Operations in these areas and any arboricultural works such as lopping or crown reduction should not be undertaken without further surveys being undertaken. Operations should not negatively impact on these trees as their damage or loss could result in the destruction of a bat roost.

### 05 Bats

Further bat roost characterisation will need to be undertaken if any of the individual trees or woodland blocks that have been identified as having bat roosting potential are not removed within two years of the surveys being undertaken. Ideally surveys should be undertaken immediately prior to any works being undertaken as bat roosts are transient in nature and species such as common pipistrelle have low roost fidelity and may use a number of roosting opportunities depending on the prevailing environmental conditions.

To minimise impact on foraging and commuting bats a sympathetic lighting strategy which avoids strong illumination of the woodland edges, tree lines and scrub is recommended. The Institute of Lighting Engineers and The Bat Conservation Trust (BCT & ILE 2018) have produced guidance, the aim of which is to minimise and mitigate for the impact on bats as a result of lighting. The following mitigation is recommended:

- Avoid lighting any key habitats and features together. This particularly applies to the bat roosting opportunities constructed as mitigation for the loss of an existing roost within the disused power house building and retained tree lines, woodland edges and scrub edges.

Key habitats and features should not be lit if at all possible, i.e. only when artificial light at night is needed for safety reasons or to comply with the legal framework. Through careful consideration prior to development of new infrastructure it is often possible to avoid illumination of bat habitats without putting human safety at risk. This is important as the protection of dark refuges is essential for bats.

### 06 Hedgehogs

It is recommended that hedgehog crossing signs are erected around the site to reduce the potential impacts on hedgehogs being killed in road traffic collisions within the site due to an increase in vehicular traffic.

07 S106 Legal Agreement

The planning permission is subject to a Legal Agreement (Obligation) under Section 106 of the Town and Country Planning Act 1990. The S106 Agreement is legally binding and is registered as a Local Land Charge. It is normally enforceable against the people entering into the agreement and any subsequent owner of the site.

**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>RB2019/0811</b>
<b>Proposal and Location</b>	Erection of dwellinghouse and detached garage at land to rear of 1 Firbeck Lane, 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 an open area of land to the rear of the former Scammings Farm, which consisted of a farmhouse as well as a derelict barn until early 2011 when it was demolished. The application site used to form part of the former Scammings Farm.

To the north of the site are open fields which are within the allocated Green Belt. To the east and west of the site are existing houses, the ones to the west at a slightly elevated position and those to the east at a significantly lower level. The properties to the east are bungalows on Eastfield Crescent. The site of the former barn, the farmhouse and other dwellings are sited to the south of the site and have been subject to other applications for residential development.

The site itself slopes down from south to north and also from west to east. The site, whilst overgrown to the rear, has the commencement works of a dwelling which was previously approved, there is the footprint of a dwelling and stone work to just above damp proof course. There is also scaffolding erected and part of a large boundary wall along the boundary with properties on Eastfield Crescent.

### Background

There have been several applications submitted relating to this site:

RB2006/2065: Erection of a detached dwellinghouse, a pair of semi-detached dwellinghouses and associated garages - WITHDRAWN 07/02/07

RB2007/1576: Erection of a detached dwellinghouse, a pair of semi-detached dwellinghouses and associated garages - GRANTED CONDITIONALLY 21/02/08

RB2011/0210: Erection of a detached dwellinghouse, a pair of semi-detached dwellinghouses and associated garages (renewal of permission RB2007/1576) - GRANTED CONDITIONALLY 05/04/11

RB2014/0804: Erection of 1 No. dwellinghouse - GRANTED CONDITIONALLY 13/11/14

RB2017/1152: Erection of 1 No. dwellinghouse & detached garage – WITHDRAWN 30/11/17

It is of note that foundations have been dug and stonework constructed up to ground floor level, but the works carried out to date do not have planning permission as they do not relate to the plans approved under the 2014 permission. As such, and due to the variations between the scheme previously approved and that now proposed, the applicant was requested to cease works on site and submit the current application to regularise matters.

### 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**

This proposal is for the erection of a two-storey detached dwellinghouse and detached garage to the rear.

The dwelling would be accessed off the existing driveway to the south which leads to Firbeck Lane close to its junction with High Street and St John's Road. The access runs to the east of no. 2 High Street and Peartree House and to the west of Scammings Farm (1 Firbeck Lane). The driveway currently serves four dwellings.

The proposed dwelling would be sited to the east of the detached dwelling known as The Orchard and the rear boundary of the site would run in line with The Orchard's rear boundary.

The proposed dwelling would be 8.2 metres wide with a single-storey off-shot to the east facing elevation approximately 2.2 metres wide. The dwelling would be approximately 7.1 metres high. The west facing side elevation would be approximately 13.1 metres long and the east facing side elevation would be approximately 9.5 metres long. The west facing elevation would not project beyond the rear building line of The Orchard. The front elevation of the proposed dwelling would be of a modest design and

simple fenestration; it would have a porch feature in the centre with windows either side that would be replicated above. The rear extension would have two separate projecting gable ended off-shots. There would be ground floor windows to habitable rooms on the east facing elevation and non-habitable room windows on the west elevation.

The detached garage would be of a flat roof with a footprint of 6.3 metres by 6.1 metres to a height of 2.3 metres. Due to the changes in levels across the site the roof of the garage would be level with the floor level of the dwelling and would be 1.2 metres from the rear elevation. The applicant is proposing to use the roof of the garage as a patio area accessed via a short walkway between the house and the garage. The east and west sides of the patio will have a 1.8 metre high screen that would be of obscure glazing.

To the rear of the property there will be approximately 150 sq. m of private amenity space.

It is proposed to construct the scheme in stonework and pantiles. Boundary walling is also proposed and partially built and is being constructed in the same materials.

The following document has been submitted in support of the application:

### Design and Access Statement

The document provides an overview of the site, its surroundings and context; it also provides details of the proposal in respect of layout, scale, landscape and appearance.

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

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

The application site is allocated for Residential purposes in the Local Plan and 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):

CS14 'Accessible Places and Managing Demand for Travel'  
CS23 'Valuing the Historic Environment'  
CS28 'Sustainable Design'  
CS29 'Community and Social Facilities'  
SP26 'Sustainable Transport for Development'  
SP41 'Conservation Areas'  
SP55 'Design Principles'

### **Other Material Considerations**

National Planning Practice Guidance (NPPG)

Council's Car Parking Standards.

## South Yorkshire Residential Design Guide

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 (as the site is within the Conservation Area) along with individual neighbour notification letters to adjacent properties. 7 letters of representation have been received from local residents and a letter from the Parish Council. The issues raised are summarised below:

- This project has proceeded without proper approval.
- In the light of the apparent refusal to accept restrictions, what recourse do the neighbouring property owners have to stop previously rejected development in the backland being carried out?
- The first floor balcony / eating / socialising / barbecue area is a detriment to the peaceful enjoyment of the neighbours and will result in overlooking.
- It will tower over the surrounding properties which are mostly bungalows and will therefore be out of character in the area close to what was Rotherham's first Conservation Area.
- The plans are deceiving.
- Concerned about the drainage of surface water of the land as my property is considerably lower than the building plot and water is likely to run off and flood my garden area. Where to and how is the water going to be drained from the building plot?
- This developer appears to have a total disregard for this village by attempting to build this over-large dwelling that clearly will look completely out of place amongst the surrounding properties.
- Would impact on natural light coming into our property and cause overshadowing.

The Parish Council has stated that they wish to raise concerns about the height and scale of the proposed building on this site. Bungalows primarily surround the site and with the topography of the land this building is likely to tower over the existing buildings, the planned development is therefore out of character.

Additional consultation took place on receipt of amended plans, which showed the inclusion of a 1.8m high screen on the roof of the garage. A further 2 letters were received from residents who have previously commented. The additional issues raised are summarised below:

- The double garage is now an integral part of the house and forms a patio area above the garages accessible from the house.

- Adverse impact on the surrounding properties due to the height of the property, as a result of rooms in the roofspace.
- The measures taken to prevent line of sight viewing from the doorway of the proposed property into the adjacent bungalow is the mounting of a fence on top of a wall. This fence will be facing south west which is the prevailing wind direction for much of the time in the UK and so unless it is very well constructed and maintained may well only be seen as a non-permanent solution.
- The plans submitted are not accurate. Construction has already commenced at this site, with foundations and ground floor walls largely completed, and it is clear that the ground floor level of the proposed property is at a substantially higher level than the The Orchard property. Unless all of the existing construction is to be demolished, then the information on the section drawing is incorrect and misleading.
- The land contamination report recently added to the planning notes assumes no construction has commenced, and recommends several activities/samples prior to the development commencing. The works were stopped around February 2019, and the ground floor has been constructed since that time.

Two Right to Speak requests have been received from objectors.

### **Consultations**

RMBC - Transportation Infrastructure Service: No objections subject to conditions

RMBC - Drainage: No objections.

RMBC - Land Contamination: No objections subject to conditions.

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:*

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) 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:

- The principle of development
- Design issues and impact on Conservation Area
- General amenity
- Highway considerations
- Drainage
- Land contamination
- Other considerations

### Principle

The application site is allocated for Residential purposes within the Council's adopted Local Plan Policies Map.

Policy CS1 'Delivering Rotherham's Spatial Strategy,' sets out a six tier hierarchy for new development, and states that: "Most new development will take place within Rotherham's urban area and at Principal Settlements for Growth. At Principal Settlements and Local Service Centres development will be appropriate to the size of the settlement, meet the identified needs of the settlement and its immediate area and help create a balanced sustainable community. Our strategy will make the best use of key transport corridors, existing infrastructure, services and facilities to reduce the need to travel and ensure that wherever possible communities are self contained."

Laughten-en-le-Morthen is categorised as being the fifth tier to Policy CS1 and is identified as being suitable for only limited housing growth to meet local needs, to which the Borough's growth strategy allows for 1% of housing growth to be accommodated within such a village.

Policy CS3 'Location of New Development,' further states that for existing communities to grow in a sustainable way new development should, wherever possible, be located where accessibility between new housing, existing centres, facilities and services can be maximised.

Bearing in mind that single dwellings have been approved on the site in the past, the site's location within the built up area of Laughten-en-le-Morthen, and its close proximity to existing housing, services and local public transport, it is considered that the development would be within a sustainable location that would accord with the presumption in favour of sustainable development.

Furthermore, Policy CS6 'Meeting the Housing Requirement,' states: "housing development will be expected to make efficient use of land while protecting or enhancing the character of the local area."

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

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise."

It is considered that although in sustainability terms Laughton-en-le-Morthen has limited facilities i.e. shops etc, other facilities such as schools, doctors, places of worship and public transport services, are located close by, and it is considered that the scheme will continue to make efficient use of the site by bringing this currently vacant site into an appropriate use. In addition, given the current residential nature of the area, the proposed development is compatible with adjoining land uses.

It is therefore considered that the principle of developing this particular site is appropriate and supported by Core Strategy Policies CS3, CS6 and CS33, and the advice within the NPPF.

The remainder of this report will assess whether the proposal conflicts with the Council's adopted Local Plan or whether the proposal can be approved "*without delay*".

#### Design issues and impact on Conservation Area

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 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 site sits within the Conservation Area, accordingly, policies CS23 'Valuing the Historic Environment' and SP41 'Conservation Areas', which require developments in Conservation Areas to conserve and enhance its setting and historic significance, are considered relevant.

The dwelling hereby proposed is a large detached dwelling, which is similar in design to the dwelling approved in 2014, particularly the front elevation which remains unaltered, but with larger rear projections. The front elevation is modest in its design with a central porch feature flanked either side by appropriately sized windows which are then replicated above to give a cottage style appearance, which is added to with the traditional stone materials. The height of the dwelling is appropriate and not excessive when compared to the height of other dwellings and would not look out of place or overly large.

The rear off-shots, while of a large size, would not project beyond the rear building line of the adjacent property The Orchard. Furthermore, the site is large enough to accommodate the proposed dwelling, amenity space and parking / manoeuvring space required for the proposed dwelling. Accordingly, the development would not result in overdevelopment of the site.

In addition, the flat roof double garage at the rear is of a modest size and its flat roof and siting minimise its impact. Furthermore, the site is large enough to accommodate the structure and as outlined in more detail in other sections of the report would not impact on neighbouring amenity.

Taking into account the guidance set out in both local and national planning policies and guidance, it is considered that the style, layout and design of the proposed dwelling is not out of character with the wider Conservation Area given its design, appearance and proposed materials. It is considered that its detailed design continues to preserve and enhance the character of the Conservation Area. Accordingly, the proposal complies with relevant national and local planning policies and guidance and raises no design 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.

Policy SP55 states that development proposals should ensure that the design and layout of buildings enables sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or property are protected from overshadowing.

The South Yorkshire Residential Design Guide sets out guidance on appropriate spacing standards for dwellings, as well as guidance on amenity provision.

It is considered that the main element of the proposed dwelling has been designed such that it meets the guidance and as such is considered to be acceptable in this instance and would therefore not result in any harm to any neighbouring properties.



In respect of the rear off-shots it is noted that they would not project beyond the rear building line of the adjacent property (The Orchard) and the dwelling would be sited at a lower level to The Orchard. In addition, there are no habitable room windows in the side elevation overlooking The Orchard. As such the proposed dwelling, by virtue of its size, scale, form, design, height and siting would not appear overbearing, would not result in overlooking or result in significant overshadowing of the property known as The Orchard.

With regard to the properties on Eastfield Crescent (and principally numbers 9 and 11), which are bungalows and sit at a lower level to the application site, it is noted that they have very small rear gardens though they do not directly face the proposed dwelling as they are sited at a slight angle to the site. It is considered that the proposed dwelling given its size, scale, form, design and height, together with land levels and boundary treatment would not appear overly dominant or have a significantly adverse impact on outlook. Furthermore, it is considered that given the orientation of the site, the proposal would not significantly overshadow the properties or their rear garden spaces.

It is noted that there is a habitable room window proposed in the ground floor of the east facing side elevation of the rear off-shot, which would be sited less than 10 metres from the party boundary with properties on Eastfield Crescent. However, there will be no significant overlooking as the proposed boundary wall between the properties would screen views into the properties on Eastfield Crescent.

Furthermore, it is considered that the proposed garage structure would also have no adverse impact on the amenity of neighbouring properties due to its size, height, design and siting together with land levels and boundary treatments which ensure it would not appear overbearing; give rise to any overshadowing or being oppressive.

In respect of the proposed use of the garage roof as a seating area for the occupants of the dwelling, it is noted that there is potential for overlooking towards The Orchard to the west and the bungalows on Eastfield Crescent to the east. The applicant has proposed to provide a 1.8m high obscure glazed screen along the eastern and western edge of the roof to minimise any direct overlooking or perception of being overlooked. It is considered that the introducing of the screening, together with the land levels, boundary treatment, distance to neighbouring properties and the small rear gardens of properties on Eastfield Crescent, will ensure that there is no direct overlooking into either private amenity spaces or rear habitable room windows. In order to ensure this is maintained throughout the life of the development a condition shall be appended requiring full details of the obscure glazing to be agreed and the screen will need to be retained in perpetuity.

Further to the above the private amenity space proposed satisfies the requirements of the South Yorkshire Residential Design Guide for dwellings of this size. The applicant has amended the red edge boundary to remove part of the proposed garden area that was originally within the Green Belt beyond the northern boundary.

The amenity issues raised by the objectors have been considered, but it is considered that the proposals comply with the guidance set out in the South Yorkshire Residential Design Guide and the NPPF and will not adversely impact on the amenity of neighbouring residents, subject to relevant conditions.

### Highway issues

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:*

- b. 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...”*

With regard to the current application, it is noted that the scheme if implemented will result in a single dwelling served from an existing private drive. The private drive was granted planning permission (R00/0688P) on the 28 September 2000 and included alterations to the vehicle access with Firbeck Lane. It is noted that these improvements have not been implemented although several properties are now inhabited.

However, notwithstanding the above the proposed development would provide a level of off-street parking in line with the Council’s adopted standards and subject to conditions requiring details of the access improvements being submitted and approved before the dwelling is occupied, the scheme would raise no highway issues.

### Drainage

The Council’s Drainage Engineer notes that the Environment Agency’s Risk of Flooding from Surface Water map indicates that there is low risk of surface water flooding to this site around where the proposed dwelling is located. They further state that ground levels around the property should be designed that surface water is shed away from the proposed dwelling, but this will be assessed through the Building Regulations stage.

Furthermore, it is noted that some objections have been received that have raised issues in respect of the proposal to discharge surface water to a soakaway. The Council’s Drainage Engineer has indicated that the adequacy of any soakaway would be assessed through Building Regulations approval and as this a minor development for a single dwelling there are no objections from a drainage perspective to the planning application.

### Land contamination

The application site has been occupied by a number of agricultural buildings / outbuildings since at least the early 1850’s until 2010.

It is known that the application site has until recently supported a range of agricultural buildings. In a past planning application (RB2014/0804) details of a site walkover undertaken in March 2011 were provided to confirm site conditions. At the time of writing the report the site was reported to be a cleared area of land, which had been levelled in readiness for redevelopment. It was also reported that a number of former collapsed barns had been cleared from site. However, a range of reclaimed stockpiled materials comprising stone, timber and bricks were evident at the time of the site walkover. The site is to be redeveloped with a residential dwelling and garage, complete with associated garden and soft landscaping areas.

Historically buildings have always been present on the site that may have been used for farming / agricultural purposes. Land adjacent to the application site has also been occupied by Scamming's Farm for a significant period of time. For this reason there is potential for near surface soils at the site to be contaminated from past site uses and from adjacent land uses. Asbestos may also be present in surface soils following the collapse/demolition of the former barns. Made ground of variable quality is considered likely to be present below the areas of the former building footprints which could give rise to a source of potential contamination.

Such contaminants may include:

1. Presence of naturally occurring metals in the soil
2. Presence of heavy metals/metalloids, PAHs, sulphates associated with the former buildings on site and the potential presence of made ground across the site
3. Presence of organic substances in the soil associated with past potential farm use
4. Presence of asbestos containing materials in near surface soils Based on the above information intrusive site investigations will be required to determine if the land is suitable for its proposed residential end use.

Having regard to the above the Council's Land Contamination Officer has indicated that no objections are raised subject to conditions requiring the submission of a Phase I Site Assessment Report being submitted to and approved by the Council before any further works commence.

#### Other considerations

It is noted that works commenced on the 2014 application though that the scheme being built out differed to that approved, and once informed of this the applicant ceased all works on site and submitted the current application in an attempt to regularise matters.. The Council are sympathetic to the residents' concerns about work commencing on site without a valid planning application. However, no laws have been broken and there is nothing within Planning Law that prevents retrospective applications. The NPPG 'Enforcement and post-permission matters' sets this out. Accordingly, whilst not best practice the Council have to determine the application on its own merits having regard to all relevant material planning considerations.

The issue of the plans being deceiving is noted but this relates to the originally submitted plans which have been revised during the course of the application.

Furthermore, there is no third party right of appeal, as such the issue raised by the objectors in respect of “*what recourse do the neighbouring property owners have to stop previously rejected development in the backland being carried out?*” is not a material planning consideration.

Further to the above, the issues raised in respect of impact of the development on the Conservation Area and amenity of neighbouring residents, as well as drainage concerns have been considered and addressed in the prevailing sections of this report; and whilst noted it is considered that on balance the proposal could not be refused on these issues.

## **Conclusion**

It is considered that the proposal provides an adequately designed dwelling that would not be out of keeping with the character of the Conservation Area, with appropriate amenity provision for the existing and proposed dwellings. The dwelling is not considered to significantly impact on the residential amenity of the neighbouring properties and the proposal would also have no significant impact on the highway network. As such, the proposal is in compliance with an up-to-date development plan, and as set out in the NPPF at paragraph 11 the application should be approved without delay. Therefore, the application is recommended for approval subject to conditions.

## **Conditions**

### General

01

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

Reason

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

02

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

1711/02 rev B, received 11 July 2019

1711/04, received 22 May 2019

1711/05, received 11 July 2019

1711/07, received 12 September 2019

1711/010 rev A, received 22 May 2019

1711/014, received 22 May 2019

1711/18 rev A, received 11 September 2019

1711/19, received 12 September 2019

Reason

To define the permission and for the avoidance of doubt.

03

No further development shall take place above ground level on either the dwelling or the garage until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity.

04

The 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 before the dwelling is occupied and shall thereafter be maintained.

Reason

In the interests of the visual amenity of the area.

05

The dwelling shall not be occupied until full details of the 1.8m high obscure glazed screening to the roof of the garage, including its materials and level of obscure glazing, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the roofspace is brought into use and shall thereafter be retained in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interests of amenity of neighbouring residents.

Highways

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

Details of the proposed vehicle access improvements to Firbeck Lane as indicated in draft form on Drg No 1711/05 shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented prior to the dwelling being brought into use.

Reason

In the interests of road safety.

#### Land Contamination

08

Prior to any further works commencing on site 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 then these works must be undertaken in accordance with the conclusions and recommendations detailed in the Desk Study Report.

The above will 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.

09

Subject to the findings of 08 above and prior to any further works commencing, a Remediation Method Statement shall be provided and approved by this Local Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Authority must be given two weeks written notification of commencement of the remediation scheme works.

Reason

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

10

Prior to occupation if subsoils / topsoils are required to be imported for gardens and/or soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Authority to ensure they are free from contamination.

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

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.

Amenity

13

The window(s) at ground floor on the side elevation of the rear off-shot facing properties on Eastfield Crescent shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and be non-openable, unless the part(s) of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

Reason

In the interests of the amenities of the occupiers of adjoining properties.

**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 the 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

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

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

To the Chairman and Members of the  
PLANNING REGULATORY BOARD

Date 10<sup>th</sup> October 2019

Report of the Director of Planning, Regeneration and Transport Service

ITEM NO.    SUBJECT

1 Page No. 80	<b>Proposed Tree Preservation Order No 2, 2019 – 10 Sandygate, Wath upon Dearne, Rotherham. S63 7LW</b>
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ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE  
2019

REPORT TO COMMITTEE  
DATE 10<sup>TH</sup> October

**Proposed Tree Preservation Order No 2, 2019 – 10 Sandygate, Wath upon Dearne, Rotherham S63 7LW**

**RECOMMENDATION:**

**That Members confirm the serving of Tree Preservation Order No. 2 2019 without modification with regard to the trees which are the subject of this report, situated on land adjacent to 10 Sandygate, Wath-Upon-Dearne, Rotherham under Section 198 and 201 of the Town and Country Planning Act 1990.**



**Background**

The two cherry trees are protected by Wath-upon-Dearne Conservation Area.

A section 211 notice to prune the cherry trees was submitted under application reference RB2019/0393. The intended work was to crown reduce the trees to around their previous points to leave more frith and create balanced crowns and alleviate issues of obstruction to the business premises

It was considered the proposed work would adversely affect their appearance and result in a loss of amenity to the conservation area. As such, a Tree

Preservation Order was placed on the trees under a new TPO No. 2 2019 on 17 April 2019 and all interested parties notified.

The purpose of this report is to assess the objections received and determine whether the TPO should be confirmed or not.

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

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

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

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

## **Objections**

A representation has been received from the applicant objecting on the following grounds –

- The trees stand on the applicants land and should be maintained by the Council
- Obstructing public view of the business
- Safe planting distance
- Commercial and criminal affect the trees have created

One Right to Speak request has been received.

## **Comments from Tree Service Manager**

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

The trees stand on the applicants land and should be maintained by the Council

The creation of the TPO is not based on who owns or who is responsible for the management of the trees but rather that a scheme of work has been provided via a section 211 notice to Rotherham Council detailing the intent to carry out tree works that would significantly diminish the trees' good structure,

their good health and the excellent level of amenity that the trees provide the conservation area.

The creation of the TPO is not intended to stop all works from happening to the tree (and nor is it possible under the TPO legislation to stop all works) but just to stop poor works that would affect the tree's long-term health and safety and its ability to provide good amenity to the local area.

Therefore should works be applied for that is deemed appropriate good management of the trees then consent will be granted.

An example works specification that would likely be granted consent that would maintain the tree's good amenity is:

Selectively prune branches to provide a maximum of 2.4m metres clearance above ground-level and a maximum clearance of 2 metres from adjacent buildings.

#### Safe Planting Distance

There is no legal requirement to plant trees or to allow trees to grow at set distances from properties. Such guidance as mentioned in the objection is merely that, guidance. If such guidance was to be followed across the borough, many thousands of trees would be removed unnecessarily.

Such guidance is designed to reduce the incidence of subsidence damage occurring in buildings. This is such a complicated area of soil and tree science that, despite years of research into the matter, no scheme intended to provide a solution has been shown to be successful. This is due to the large amount of variables that are involved in a tree causing subsidence damage.

What we do know at a local level is that subsidence in Rotherham occurs extremely rarely. If however it was to occur as a result of a tree protected by a Tree Preservation Order then upon receipt of the appropriate evidence proving this to be the case then the offending tree(s) would be allowed to be removed.

#### Obstructing public view of the business

There is no legal right for the business to be in full view from the public from all angles.

#### Commercial and Criminal affect the trees have created

There has been no evidence provided to suggest that any anti-social or criminal behaviour has occurred due to the presence of the trees and that it would not have occurred without the trees.

Urban trees bring a wide range of environmental, social and economic benefits to urban areas. Just some of the benefits of urban trees, such as those positioned adjacent to 10 Sandygate are:

- Cooling local air temperatures,
- Intercepting rainfall
- Reducing air pollution, producing oxygen and intake of carbon
- Provision of habitat
- Associations with improved mental and physical well-being.
- Associations with increased property values
- Flood protection

The above points could be said to actually increase the commercial impact the trees have on the business and possibly lower criminal activity, not only making the town centre a nicer place to be, bringing custom into the town centre, but also a healthier place to live. CCTV cameras are positioned throughout the town centre providing adequate surveillance.

Studies back this view up and have shown that shopping and commercial districts with good levels of tree cover increase the amount of time and money spent by shoppers in that area.

### **Conclusion**

The trees are good quality trees that provide an excellent level of amenity to the local area. They are likely to be capable of providing at least this level of amenity for the next 40 years, possibly more.

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