

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY  
BOARD

PLANNING, REGENERATION AND CULTURE SERVICE

REPORT TO BOARD  
**10<sup>th</sup> December 2015**

Report of the Director of Planning, Regeneration and Culture

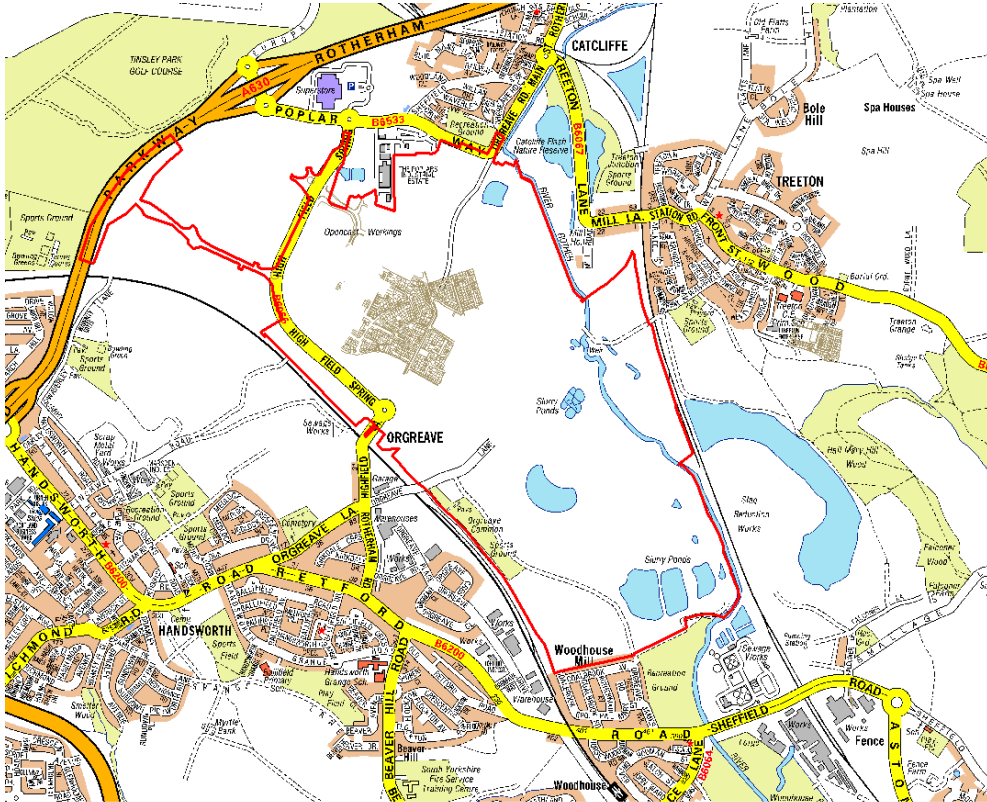
ITEM NO.    SUBJECT

1            RB2015/1380

Variation to the Section 106 Agreement attached to  
RB2008/1372 to vary the clauses within the Agreement that  
require Harworth Estates to provide land for a Park and Ride  
facility at Waverley New Community.

2            Proposed Tree Preservation Order No 3 2015 – at land at Well  
Lane, Whiston, Rotherham, S60 4HU

Variation to the Section 106 Agreement attached to RB2008/1372 to vary the clauses within the Agreement that require Harworth Estates to provide land for a Park and Ride facility at Waverley New Community.



## Recommendation

**A. That the Council enter into a revised agreement with the developer under Section 106 and 106A (1) (a) of the Town and Country Planning Act 1990 (as amended) for the purposes of following:**

- (i) Remove the obligation to provide land for the purposes of the Park and Ride facility, Transport Interchange and associated infrastructure.**

## Background

Outline planning permission was granted for a new community comprising residential (3890 units) commercial development (including office, live/work, retail, financial and professional services, restaurants, snack bars and cafes, drinking establishments, hot food takeaways, entertainment and leisure uses and a hotel) and open space (including parkland and public realm, sport and recreation facilities), together with 2 no. 2 form entry primary schools, health, cultural and community facilities, public transport routes, footpaths, cycleways and bridleways, landscaping, waste facilities and all related infrastructure (including roads, car and cycle parking, gas or biofuel combined heat and power generation plant and equipment, gas facilities, water

supply, electricity, district heating, telecommunications, foul and surface water drainage systems and lighting)

This planning permission is subject to a Section 106 Agreement (dated 03 March 2011) for the purpose of securing a number of obligations relating to the provision of Affordable Housing, Schools, A Community Centre, Library, Play Areas, Travel Plan Measures and financial contributions towards junction improvements. This Deed seeks solely to vary the original Agreement in relation to the following:

- Delete the definitions of Public Transport Facilities and SYPTE Land from Clause 1 of the Updated Deed;
- Delete Paragraph 3 of Schedule 1 of the Updated Deed, which states:
  - *'To make provision for the public transport facilities as set out in Schedule 4'*;
- Delete the following words from the paragraph below 10.2 of Schedule 3 of the Updated Deed, which states the following:
  - *'Provided that the sums specified in paragraph 10.2, 10.3 and 10.4 shall not be payable if the Bus Rapid Transit (BRT) South scheme currently under consideration by SYPTE in conjunction with Sheffield and Rotherham Councils has commenced operations by the due dates for payment'*.
- Delete Schedule 4 of the Updated Deed, which requires the reservation of land for the purposes of a park and ride facility for 15 years and construction of a transport interchange along with access and perimeter landscaping and fencing.

## **Site Description and Location**

The site occupies an area of approximately 230 hectares and comprises the major part of the former Orgreave opencast mining site. Opencast mining operations ceased in January 2006 and the site is currently being restored and compacted in accordance with the approved details of application ref: RB2008/1918. To the north of the site is 20 hectares of land known as Highfield Commercial and beyond is the Advanced Manufacturing Park (AMP) which is approximately 40 hectares in area. Together the separate developments form a part of the overall Waverley site.

The site is located equidistance from Rotherham and Sheffield town and city centres and is currently primarily accessed off the Sheffield Parkway. It is surrounded by the outlying villages of Catcliffe to the northeast, Treeton to the east, Orgreave and Woodhouse Mill to the south and Handsworth to the west. The site is bound to the east in part by the River Rother and the Rotherham/Chesterfield freight railway line, to the south by the Cranbrook housing estate and to the southwest by the Sheffield to Lincoln railway. The northern boundary abuts the Highfield Commercial development site except for an access to the Sheffield Parkway.

## **Proposal**

A Deed of Variation has been submitted by the applicant, Harworth Estates which seeks to remove an obligation to reserve land for South Yorkshire Passenger Transport Executive (SYPTE) for the purposes of constructing a park and ride facility, transport interchange and associated infrastructure for a period of 15 years starting from the date

of the grant of planning permission (16/03/2011). This obligation was secured in the S106 Agreement attached to the original planning permission Ref: RB2008/1372).

By way of background, when the original Section 106 was being negotiated, the southern route of the Bus Rapid Transit (BRT) was considered to be a viable public transport option, along with BRT North which is now currently under construction, however over time the southern route has come under scrutiny and is now no longer seen as a viable mass transit solution to public transport provision in this area.

Accordingly, the retention of land for the purposes of a park and ride facility to facilitate the BRT South scheme is no longer deemed necessary.

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

The site is split into three allocations in the adopted UDP; Industry and Business, White Land and Green Belt and the following Policies are considered to be relevant.

UDP Policies:

HG5 'The Residential Environment'

Core Strategy Policies:

CS14 'Accessible Places and Managing Demand for Travel'

### **Other Material Considerations**

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

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

### **Consultations**

Streetpride (Transportation and Highways) raise no objections to the removal of the Park and Ride facility on the basis that alternative public transport provision is secured by condition and financed through the S106 Agreement.

South Yorkshire Passenger Transport Executive has stated that: "*originally the Park and Ride included the public transport interchange and a stop for the southern route of the BRT. However, overtime the development mix of the site, as well as the attractiveness of a park and ride in that area have changed and as such Harworth, RMBC and SYPTE agree that the Park and Ride facility is not in an appropriate location. This combined with the fact that BRT South has not come forward means it is appropriate to remove the Park and Ride requirement. There will still be an Interchange in a suitable location on the site, with the remaining money set aside for future public transport infrastructure improvements, potentially for use as part of the wider transport issues within the Advanced Manufacturing Innovation District.*"

## Appraisal

This Deed is made pursuant to Section 106 and 106A (1) (a) of the Town and Country Planning Act 1990 (as amended) and the obligations entered into are planning obligations for the purposes of this Act.

As previously stated, outline planning permission was granted in 2011 for a new community and during the determination process, consideration was given to the sustainability benefits of the site which included public transport provision. At the time of consideration, the proximity of the planned residential dwellings together with the existing provision of bus services were considered appropriate to provide a minimum level of service of four buses per hour to a major public transport interchange, which was consistent with policy requirements at that time.

Despite this and in order to encourage the use of public transport in the area, SYPTE were promoting a scheme to construct a 1,000 space Park and Ride facility within the wider Waverley site which sought to provide a car competitive bus link into Sheffield and Rotherham, however it was not committed on the date of determination. The requirement to retain the land for this purpose for a period of 15 years was therefore included in the S106 legal agreement.

Additionally and in the event the proposed Park and Ride facility was unsuccessful, the applicant was required to improve the existing public transport provision which consisted of a financial contribution of £1,500,000, payable at various intervals during the development build out. This alternative provision was secured via the S106 and a condition of the approval and will remain unchanged.

Since the approval in 2011, approximately 400 dwellings have been constructed and over the last 12 months, the landowner, Harworth Estates has been in discussion with RMBC regarding alternative proposals for the redevelopment of the Highfield Commercial site which are being brought forward via a Masterplan process (including Transport document) which is a requirement of the draft mixed use policy for the site set out in the emerging Rotherham Sites and Policies Development Plan Document. At the centre of these proposals is the creation of a Local Centre on the Highfield Commercial site, which will deliver the amenities necessary to deliver a sustainable and vibrant community.

In order to deliver appropriate public transport provision to the local centre, wider new community and the AMP discussions have been held with South Yorkshire Transport Executive (SYPTE) who do not consider the Park and Ride facility necessary on the basis that it is not in an appropriate location and the funding for BRT South has not come forward as originally envisaged. Accordingly this Deed seeks to remove this obligation and as such will enable discussions to proceed on the alternate public transport provision.

A large proportion of the land reserved for the park and ride facility is undevelopable, due to its location on the former open cast high wall and as such is shown on an indicative masterplan as an extension to Highwall Park, however land to the front has been tested by the landowner and could be developed, however this would need to be considered under a separate planning application.

The Deed is accompanied by a Transport Document which considers the implementation of a phased Public Transport Strategy. This has been developed following ongoing discussions with SYPTE and comprises proposals to be delivered in three phases.

Phase 1 considers that the immediate need for public transport is to serve the proposed Local Centre, relocated alongside Highfield Spring, as well as to continue to meet the requirements of AMP and the existing residential development. Highfield Spring is served by the 72/72A service between Rotherham and Sheffield, as well as the A1 service between Waverley and Meadowhall. Both services have stops, with shelters and lay-bys, on Highfield Spring. The existing stops are adjacent to the pedestrian entrance to the Sheffield University training centre and will receive additional pedestrian activity from the Homes and Communities Agency (HCA) building currently under construction. In addition, a pedestrian route from Brunel Way will be made through to the HCA access, thereby providing improved walk connections to the Highfield Springs stops from the rest of the AMP site.

This creates an opportunity to locate the initial public transport 'Hub' in this location, making use of existing service routes and enhancing bus stop facilities. There would also be new pedestrian crossing and surface treatment, to redefine this part of Highfield Spring. The parameters for the Phase 1 Hub are:

- Lay-bys
  - Long enough for 2 buses at any one time where appropriate, such as where used as timing points for existing services and where serving 2 or more services
  - Shelters, to include
    - Stop name
    - Seating
    - Lighting
    - Travel information – timetables, route details/maps
    - Litterbins
    - Changes to the highway
    - Easy access kerbs
    - Coloured surfacing and/or raised platform
    - New Highfield Spring crossing for pedestrians and cyclists

The first phase of housing has been delivered towards the south of the site, alongside Highfield Spring as it continues towards Highfield Lane. Existing bus stops on this section of road, in each direction, would be improved by providing shelters, seating, timetable information along with the creation of a formal crossing point for pedestrians getting off buses from Sheffield. This crossing point will also provide a missing facility for cyclists seeking to access the new cross boundary route linking Waverley to Handsworth. These stops are within 400m of existing residential dwellings.

Phase 2: As the development of the New Community continues, further away from existing stops, the second phase of the strategy will be implemented, providing a secondary hub which will most likely be located between the Local Centre and the proposed school, connecting through to Highfield Lane. Stops and a combination of the secondary hub on Highfield Lane will ensure that the next phase of housing is also within 400m of a bus stop. To facilitate this, any new routes through the site would be new provisions. However, there may be scope to penetrate part of the site with the A1 service.

Subsidy may be required to improve current service frequencies. At present, the 72 service runs twice an hour, in each direction, between Sheffield and Rotherham and the A1 service runs twice an hour to and from Meadowhall. This is considered to be a good provision and will need to be retained along Highfield Spring going forward. Any subsidy should therefore go towards serving the secondary Hub and providing bus routes through to Highfield Lane.

Phase 3: In later years of the development, as the community expands towards the lakes, funds will be required to provide an additional service that penetrates the site, which could operate less frequently. Although a less frequent service, even residents furthest in to the site would have good walk links to the secondary Hub and a balance can be struck between walk distance and frequency of service. The final phase of the public transport strategy is less certain at this stage, however to support these plans it is important that there remains a hierarchy of routes through the site, with main routes designed to accommodate buses (minimum 6.0m wide, off-street parking and sufficient turning space at junctions). Stops would be located along these bus-ready routes to ensure that as many homes as can be reasonably achieved are within 400m of a stop.

All of the aforementioned provision will be financed by the applicant from the £1,500,000 set aside for public transport provision.

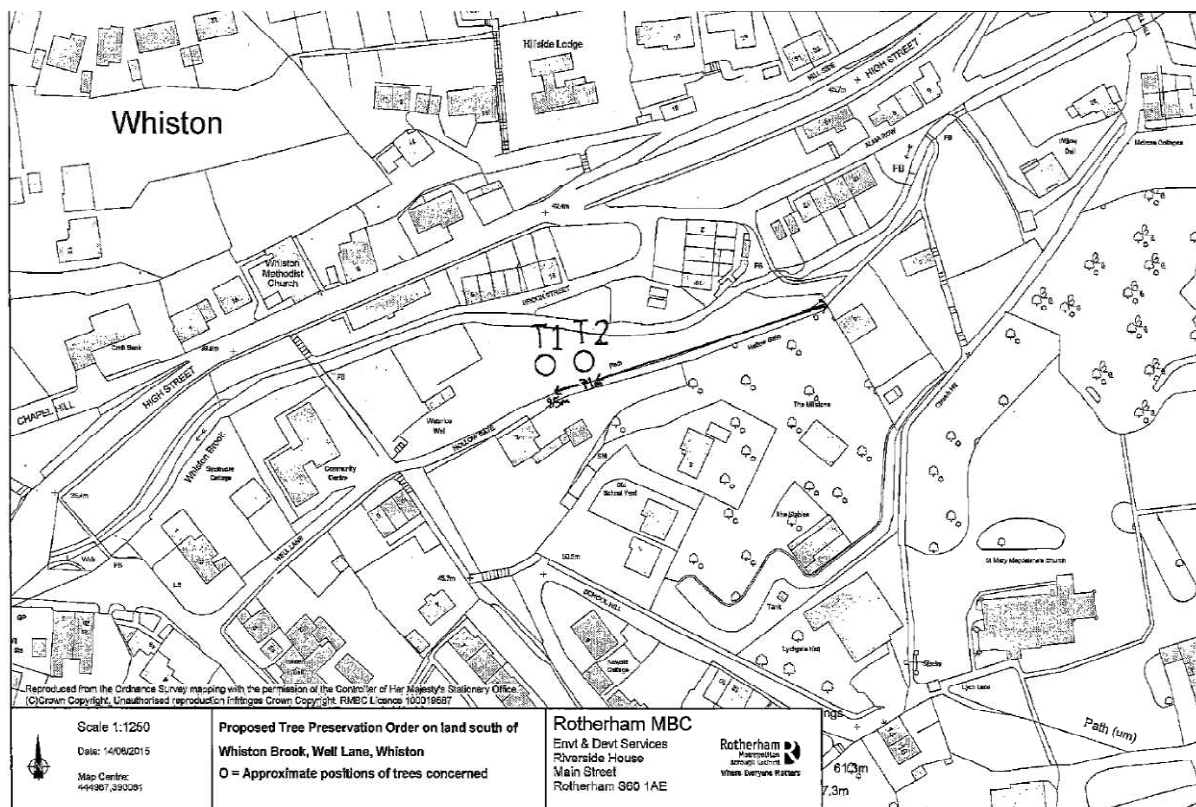
Having regard to all of the above and in light of the support from SYPTE, it is considered that the removal of the obligation to retain land for a park and ride facility, alongside the provision of a public transport interchange and associated infrastructure is no longer required. The alternate public transport provision which will be financed and delivered through conditions and obligations unaffected by this Deed are considered to be appropriate to meet the sustainability requirements of this site and as such no objections are raised to its removal.

## **Conclusion**

Taking account of all the above information submitted in support of the request to amend the Section 106 Agreement by removing the obligation to provide a park and ride facility and associated infrastructure, a revision to the legal agreement is recommended.

## Item 2

### Proposed Tree Preservation Order No 3 2015 – at land at Well Lane, Whiston, Rotherham, S60 4HU



## RECOMMENDATION:

**That Members confirm the serving of Tree Preservation Order No. 3 (2015) with modification to the site location plan and schedule to exclude T1 (Silver Birch) from the Order, at land at Well Lane, Whiston, Rotherham, S60 4HU under Sections 198 and 201 of the Town and Country Planning Act 1990.**

## Background

A six weeks' notice of intent application was submitted in July 2015 (ref: RB2015/0896) to fell and prune various trees within Whiston Conservation Area.

The Council's Arboriculturist inspected the trees and reported that the better amenity trees on the site should be protected by a new Tree Preservation Order.

The Arboriculturist stated that the trees / hedges vary in age between young to mature and in condition between poor to good and collectively they contribute to overall amenity and the character of Whiston Conservation Area. Therefore it was stated that where possible, the retention of those in reasonable to good condition with reasonably good future prospects is therefore desirable.



It was noted that maintenance of the trees and hedges on the site have been neglected for some time. The mature size of some of the trees and the possible impact their growth may have on the brook wall and Waterloo well has not been taken into account. For these reasons it was considered that the removal of most of the trees and hedges appeared necessary to avoid future damage. However, it was stated that the retention of 3 of the trees is desirable and these included a Silver Birch and two Sycamore trees, because when tested that met all the criteria for inclusion within a new Tree Preservation Order.

In August 2015 the application was determined and a Tree Preservation Order was placed on the three trees detailed above under a new TPO (ref: No. 3 2015) on 18 August 2015 and all interested parties notified and objections were subsequently received.

### Objections

The objection to the making of this order was received from DLP Planning who act on behalf of the land owner dated 24 September 2015.

The main part of the objection appears to be as follows:

- T1 (Silver Birch) is within 6m of a main sewer and it may cause damage to the public sewer for which the owner may be liable.

It is also noted that the letter also states that the loss of T2 and T3 (both Sycamores) has been accepted in the past as part of previous planning consent for the land (ref: RB2005/1201).

### Councils Tree Service Managers Report

The Trees Service has considered the objection raised and the Tree Service Manager's report in response states:

#### T1 Silver Birch

Evidence has been submitted to show the presence of a Yorkshire Water sewer on the land positioned close to the west and southern boundaries. The submitted details also include details of restrictions on tree planting near to sewers. The guidance is issued to help avoid future damage to a sewer from root encroachment and to minimise the impact on amenity if trees have to be removed to gain access to the sewer for maintenance.

It is accepted that the medium to long term retention of T1 Silver Birch within the sewer easement is not advisable for the above reasons. Therefore, the submitted evidence appears to justify the request to exclude it from the Order if it is confirmed. Therefore, it is recommended that the Order is modified to exclude it and an amended site plan and schedule be agreed. Any subsequent adverse impact that results from the loss of T1 will be permanent due to the lack of space to plant any replacement trees in a nearby location.

## T2 and T3 Sycamore

The inclusion of T2 and T3 in the new Order does not appear to be objected to. However, it is noted that the letter states that their loss was accepted in the past as part of previous planning consent for the land (ref: RB2005/1201). However, it appears that both trees were shown to be retained on the approved site layout plan as T9 and T10 respectively. For this reason their future prospects do not appear to have been at risk in the past and the need to include them in a new Order unnecessary at that time.

## Conclusions

Evidence has been provided to justify the loss of T1 and it is recommended that the Order is modified to exclude it from the Order if it is confirmed.

It is therefore considered that the main objections to the Order have been carefully assessed and the Order has been made in accordance with Government guidelines. In this instance, it is recommended the Order is confirmed with modification to the site location plan and schedule to exclude T1 from the Order.