

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY BOARD

VISIT OF INSPECTION – THURSDAY, 18TH JULY, 2019

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

Requested by:- Councillor R. McNeely, Ward Representative

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

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

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

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

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

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



Site Description & Location

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

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

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

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

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

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

Background

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

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

Proposal

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

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

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

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

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

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

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

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

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

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

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

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

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

Development Plan Allocation and Policy

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

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

Local Plan policy(s):

CS12 'Managing change in Rotherham's retail and service centres'
CS14 'Accessible places and managing demand for travel'
CS21 'Landscape'
CS26 'Minerals'
CS27 'Community Health and Safety'
CS28 'Sustainable Design'
SP11 'Development in Residential Areas'
SP23 'Out-of-Centre Retail Parks and Other Out-of-Centre Developments'
SP26 'Sustainable Transport for development'
SP52 'Pollution Control'
SP55 'Design Principles'
SP56 'Car Parking Layout'
WCS7 'Managing Waste in All Developments'

Other Material Considerations

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

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

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

Town Centre Sequential and Impact Tests Good Practice Guidance

Publicity

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

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

Three Right to Speak Requests have been received from objectors.

Consultations

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

RMBC – Drainage: Have no objections subject to conditions.

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

Appraisal

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

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

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

The main considerations in the determination of the application are:

- Principle
- Design
- Amenity
- Highway

Principle

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

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

Policy CS12 states: *"Proposals for town centre uses on the edge of or outside of designated centres will only be permitted where it can be demonstrated that:*

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

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

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

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

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

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

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

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

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

In addition, a further key consideration is whether the proposal satisfies policy SP11 'Development in Residential Areas'. Policy SP11 states: *"Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies."*

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

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

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

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

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

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

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

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

Design

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

Policy CS28 'Sustainable Design' states, in part, that: *"Proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well-designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping..."*

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

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

SP55 'Design Principles' states that: *"All forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions...Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals:*

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

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

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

The NPPF at paragraph 124 states: *"Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."* Paragraph 130 adds: *"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents."*

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

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

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

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

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

Amenity

Policy CS27 'Community Health and Safety' states, in part, that: *"Development will be supported which protects, promotes or contributes to securing a healthy and safe environment and minimise health inequalities."* It further states: *"Development should seek to contribute towards reducing pollution and not result in pollution or hazards which may prejudice the health and safety of communities or their environments. Appropriate mitigation measures may be required to enable development."*

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

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

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

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

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

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

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

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

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

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

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

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

Further to the above, it is noted that effects of works during the construction phase are inevitable with building works. However, while some noise, dust and disturbance is to be expected with development works of this type, it is important to limit the impact of the works on nearby residents. Good construction practice and appropriate consideration of working hours should ensure that this occurs, and the Council will add the standard informative to any approval regarding the construction works and any breach would be covered by the Environmental Protection Act.

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

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

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

Highways

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

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

- a. *as a priority, the proposals make adequate arrangements for sustainable transport infrastructure; promoting sustainable and inclusive access to the proposed development by public transport, walking and cycling, including the provision of*

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

SP56 ‘Car Parking Layout’ states that: *“In terms of car parking, layouts must be designed to:*

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

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

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

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

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

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

Other considerations

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

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

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

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

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

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

Conclusion

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

Conditions

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start. Conditions numbered 15 of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.
- ii. The details required under condition number 15 are fundamental to the acceptability of the development and the nature of the further information required to satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.'

General

01

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

Reason

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

02

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

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

105/19/1A, received 16 May 2019

105/19/2B, received 21 June 2019

Reason

To define the permission and for the avoidance of doubt.

03

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

Reason

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

04

The proposed development shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is brought into use.

Reason

In the interests of the visual amenity of the area.

Highways

05

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

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

06

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

Reason

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

07

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

Reason

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

08

The proposed development shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of bollards to be installed on site to prevent vehicles driving up the western part of the site adjacent the rear of properties on Clifton Terrace. The bollards shall be installed before the building is brought into use and thereafter retained.

Reason

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

Drainage

09

Above ground development or drainage works shall not begin until details of the proposed means of disposal of foul and surface water, including details of any off-site work and on site attenuation of surface water flows, have been submitted to and approved by the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.

Reason

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

Amenity

10

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

Reason

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

11

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

Reason

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

12

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

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

Reason

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

13

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

Reason

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

Landscape

14

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

Reason

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

Land Contamination

15

Prior to the commencement of development a Phase I Site Assessment Report consisting of a desk top study, a site walkover, and a conceptual site model must be undertaken to obtain an understanding of the sites history, its setting and its potential to be affected by contamination. This report must be submitted to this Local Planning Authority for review and consideration. If further intrusive investigations are recommended then these works must be undertaken in accordance with the conclusions and recommendations detailed in the Desk Study Report and the findings must be submitted to the Local Planning Authority.

The above should be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR 2-4).

Reason

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

16

Subject to the findings of condition 15 above a Phase II Intrusive Site Investigation should be undertaken to assess both the potential geotechnical and geo-environmental constraints at the site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

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

Reason

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

17

Subject to the findings of condition 16 above, a Remediation Method Statement shall be provided and approved by this Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Reason

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

18

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

Reason

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

19

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

into use until such time as all verification data has been approved by the Local Planning Authority.

Reason

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

Restrictions

20

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

Reason

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

21

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

Reason

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

Informatives

01

You should note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust which may arise during the construction phase. If a statutory nuisance is found to exist they must serve an Abatement Notice under the Environmental Protection Act 1990. Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in the Magistrates' Court. It is therefore recommended that you give serious consideration to reducing general disturbance by restricting the hours that operations and deliveries take place, minimising dust and preventing mud, dust and other materials being deposited on the highway.

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

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

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

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

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

02

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

03

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

04

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

POSITIVE AND PROACTIVE STATEMENT

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