

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
8TH AUGUST 2019**

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

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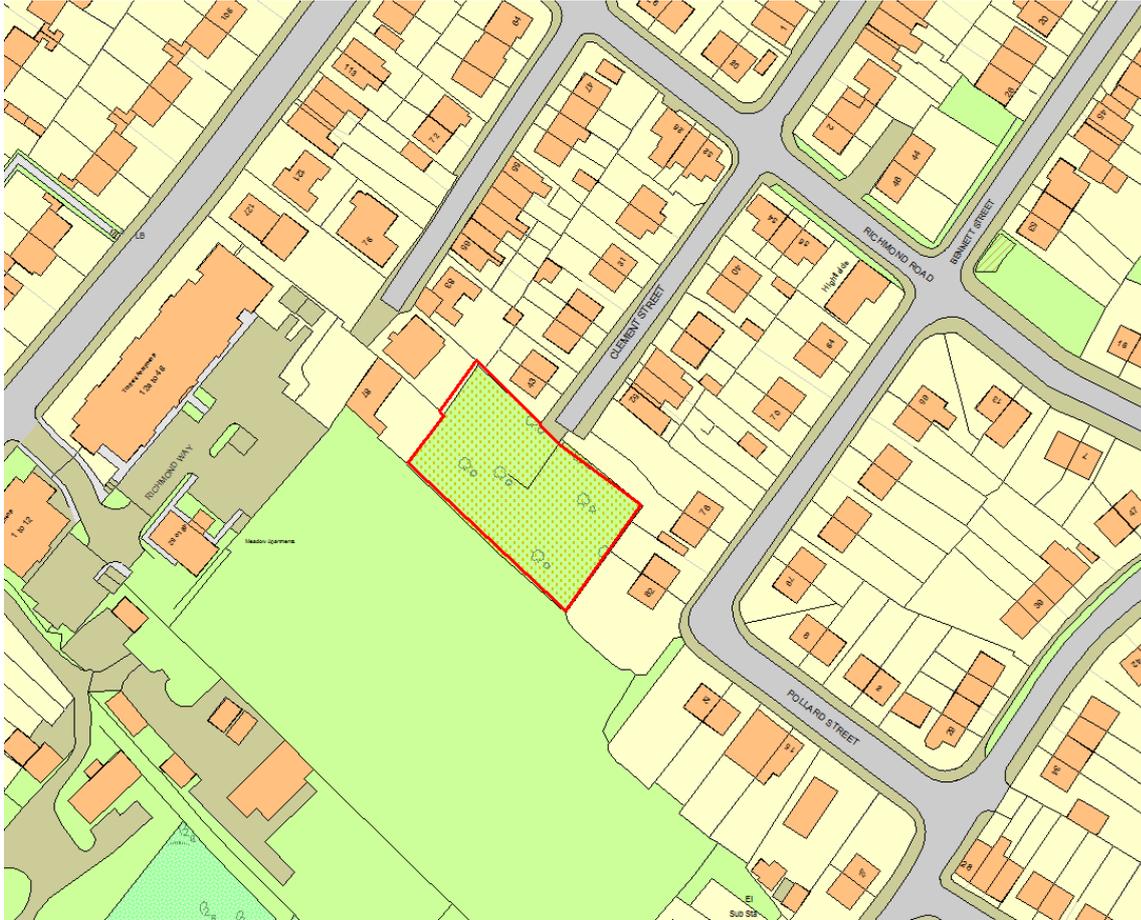
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**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
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The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

Application Number	RB2018/1636
Proposal and Location	Outline application for the erection of 8 No. dwellinghouses with all matters reserved at land adjacent 43 Clement Street, Kimberworth, Rotherham, S61 2JT
Recommendation	<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">• A commuted sum of £320 for each tree/group of trees removed (as identified in the AWA Arboricultural Report, dated June 2108, and as part of any reserved matters application) shall be provided so that the lost green infrastructure and amenity can be replaced within 500 metres of the site in the form of tree planting. <p>B. Consequent upon the satisfactory signing of such an agreement the Council resolves to grant permission for the proposed development subject to the conditions set out in the report.</p>

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



Site Description & Location

The application site sits at the end of Clement Street which is a narrow street with residential properties on either side. The road is a cul-de-sac but there is no turning facility at the end of the street, as the road finishes and the application site begins.

The application site is rectangular in plan form and slopes steeply south-easterly. The site comprises of semi-natural woodland with understory of scrub and sapling trees along with tall ruderal vegetation. There is some evidence of tree planting (tree rows) in addition to natural self-set trees on site. There are also remnants of fencing and small building footprints from the site's previous use as an allotment.

Residential properties are immediately located to the north-west on Gratton Street, north-east on Clement Street and south-east on Bennett Street. There is an area of grazed pasture field to the south-west of the site.

The wider area comprises further residential housing and greenspace, with the M1 motorway approximately 1km to the south-west of the site.

Background

There have been no previous planning applications submitted relating to this property.

The site has recently been subject to a Tree Preservation Order (TPO NO. 1 2019).

The intention of the TPO was to protect the trees whilst the planning application is being assessed so that they are not removed prematurely.

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 seeking outline permission for the erection of 8 no. dwellings, with all matters reserved.

The applicant has provided an indicative site layout plan and cross-sectional drawing. The site layout plan shows vehicular access being derived from the end of Clement Street with the road continuing into the site with a pair of semi-detached dwellings and a row of three dwellings to the south-east, a turning facility runs towards the north of the site with vehicular parking to the north-west and north of the turning facility and a row of three properties to the south-east.

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

Biodiversity Survey and Report

The survey was undertaken by ECUS Environmental Consultants to record habitats and reviews the potential for the site to contain, or be used by, species protected under either UK or European nature conservation legislation.

The report concludes the following:

- No impacts to designated sites of nature conservation interest have been identified.
- In order to mitigate for the loss of habitats on site and provide some ecological enhancement a Landscape and Ecology Management Plan (LEMP) incorporating retention of existing trees, where possible and including new native planting etc. as outlined in section 4, should be produced.
- No opportunity for roosting bats was identified on the site, as bats are sensitive to artificial lighting.
- There is potential for active birds' nests to be destroyed during vegetation removal. It is recommended that any vegetation clearance works should be undertaken outside of the bird breeding season.

Tree Survey

The survey was undertaken by AWA Tree Consultants and was carried out in accordance with BS5837:2012 to provide a detailed, independent, arboricultural advice on the trees present.

The survey revealed 45 items of woody vegetation, comprising of 40 individual trees and 5 groups of trees or shrub / hedge groups. Of the surveyed trees, there were none within retention category 'A' (High value, retention most desirable); 10 trees or groups are retention category 'B' (Moderate value, retention desirable); and the remaining 35 trees or groups are retention category 'C' (Lower value, could be retained).

The report concludes that the higher value retention category 'B' trees and groups should be retained, where possible, and incorporated into any new development design. If required the lower value retention category 'C' trees and groups could be removed and replacement planting would mitigate their losses.

The indicative layout suggests that all the category 'C' trees would be removed, along with 3 of the category 'B' trees.

Phase 1 Desk Top survey

The survey was undertaken by ECUS Environmental Consultants and recommends that an intrusive ground investigation should be undertaken to confirm the ground conditions and allow sampling of the existing soils.

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):

CS14 'Accessible Places and Managing Demand for Travel'
CS20 'Biodiversity and Geodiversity'
CS21 'Landscape'
CS25 'Dealing with Flood Risk'
CS28 'Sustainable Design'
CS33 'Presumption in Favour of Sustainable Development'
SP11 'Development in Residential Areas'
SP32 'Green Infrastructure and Landscape'
SP33 'Conserving and Enhancing the Natural Environment'
SP55 'Design Principles'
SP56 'Car Parking Layout'

Other Material Considerations

Council's Car Parking Standards.

South Yorkshire Residential Design Guide.

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance

web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The 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 site notice along with individual neighbour notification letters to adjacent properties. 10 letters of representation have been received and a petition of 26 signatures. The issues raised are summarised below:

- The proposal will impact on our privacy.
- The proposal will result in our property being overlooked.
- The proposal will affect the amount of natural light entering our property.
- The land is full of wildlife including bats and its development would affect these habitats.
- Clement Street is a narrow street with cars parked along both sides.
- Drainage issues.
- Construction noise.

Two Right to Speak requests have been received from two objectors.

Consultations

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

RMBC - Tree Service Manager: No objections subject to conditions regarding on site tree planting and signing of a s106 for financial contribution to provide appropriate off-site tree planting to compensate for the loss of trees.

RMBC - Affordable Housing Officer: Have no comments to make.

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

RMBC – Ecology: Have no objections subject to conditions.

South Yorkshire Police Architectural Liaison Officer: Have no objection subject to the scheme being built out in accordance with Secured by Design principles.

Yorkshire Water: 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.

Paragraph 11 of the NPPF states, in part, that: "*Plans and decisions should apply a presumption in favour of sustainable development.*" It goes on to 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
- Layout issues
- Impact on amenity
- Highway issues
- Trees
- Ecology
- Drainage
- Land contamination

Principle of development

The site is allocated for Residential purposes within the Council's adopted Local Plan, but is not a site identified in policy SP1 'Sites Allocated for Development'.

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.

The NPPF specifies at paragraph 11 that decisions should apply a presumption in favour of sustainable development, which means *“approving development proposals that accord with an up-to-date development plan without delay...”* This is further supported by policy CS33 ‘Presumption in Favour of Sustainable Development’.

Paragraph 12 of the NPPF states: *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted...”*

The remainder of the report will assess whether there is any reason which outweighs the presumption in favour of sustainable development.

Layout issues

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

As previously stated, the application is in outline form, with all matters reserved for future consideration under subsequent reserved matters applications. Nevertheless an indicative site layout plan and sectional drawings have been submitted to show whether or not the site can adequately accommodate the proposed number of dwellings, with

acceptable private amenity spaces, appropriate spacing standards and the required number of parking spaces per dwelling.

With regard to the proposed indicative site layout submitted as part of the application, it shows a pair of semi-detached properties and two sets of three attached properties, of a mixture of two and three bed. Five of the properties would have parking to the front, with the remaining three having parking spaces allocated at the opposite side of the turning head.

It is considered that the indicative layout would represent an acceptable form of development which would not be at odds with the character and appearance of the wider area and would not result in the overdevelopment of the site. Furthermore, each of the properties would be of a suitable size which accords with the internal spacing standards outlined in the South Yorkshire Residential Design Guide, and with an appropriate external private rear garden area which complies with the requirements detailed in the South Yorkshire Residential Design Guide.

Taking into account all of the above, any future application for Reserved Matters should have regard to the requirements of the aforementioned policies and guidance. However, on the indicative information submitted it is considered that the layout of the site could comply with the requirements of the NPPF, NPPG and Local Plan policies CS28 'Sustainable Design' and SP55 'Design Principles'.

Impact on amenity

Sites and Policies Document Policy SP55 Design Principles states, amongst other things: "Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals:

(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."

The supporting text to the Policy states: "4.323 Development proposals will be required to demonstrate that they have appropriately taken account of and mitigated against any site constraints which may have a detrimental impact upon amenity, including privacy, direct sunlight or daylight. The design and layout of buildings must enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from unacceptable overshadowing. The Building Research Establishment (BRE) provides good practice guidance in "Site Layout Planning for Daylight and Sunlight: a guide to good practice" (BRE, 2011.)"

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.

In respect of amenity there are two main elements:

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

Impact of the construction phase on existing local residents

In relation to construction, it is noted that a number of objectors have raised this as an issue, particularly given the narrow nature of Clement Street. Those comments have been considered and 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 whilst this scheme is limited in scale, due to the constrained form of access it is considered reasonable to impose a condition requiring a Construction Management Plan in this instance.

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

With regard to the impact of the dwellings once constructed on the occupants of existing properties that surround the site, it is noted that spacing distances between rear elevations of plots 1 to 5 on the indicative plan to the rear boundary with properties on Bennett Street would be in excess of the required 10 metres and there would be approximately 21 metres to the rear elevations of properties on Bennett Street which satisfies the requirements of the South Yorkshire Residential Design Guide. Furthermore, there would be in excess of 12 metres between the rear elevation of no. 85 Grattan Street and the side elevation of plot 8 and between the front elevations of plots 6 to 8 and the side elevation of no. 43 Clement Street, which meets the requirements of the South Yorkshire Residential Design Guide. In addition, an indicative site section plan has been submitted showing a 25 degree vertical sight line from the ground floor window of no. 85 Grattan Street which adequately clears the height of the proposed dwelling.

Accordingly, the proposed dwellings would not give rise to any significant overlooking or privacy issues. In addition, the proposed dwellings would not appear overbearing or oppressive when viewed from neighbouring properties or from within adjacent private rear gardens due to the spacing distances, land levels and boundary treatments; and would not give rise to any overshadowing or a significant loss of direct sunlight and / or natural daylight.

Further to the above it is noted that the spacing distances between the front of plot 3 and the side of plot 6 would be 12 metres which is the required distance outlined in the South Yorkshire Residential Design Guide between principal and side elevations. Accordingly, there would be no significant overlooking or privacy issues between the proposed properties and there would be no detrimental overshadowing of habitable room windows or proposed private rear amenity spaces.

Therefore, from the indicative plans submitted it is considered that the scheme can be accommodated on the site and would satisfy the required spacing distances to ensure that there is minimal impact on the amenity of neighbouring residents. Accordingly, from the information outlined above it is considered that the proposal would comply with paragraph 127(f) of the NPPF, Local Plan policies and the South Yorkshire Residential Design Guide.

Highway issues

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.

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 proposed development site is located close to shops and public services and is close to bus corridors with access to Meadowhall Interchange and Sheffield and Rotherham centres.

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.

The indicative site layout proposes a manoeuvring facility which is in line with the relevant guidance, while the shared pedestrian / vehicular surface is of a suitable width. Furthermore, the level of proposed car parking complies with the requirements of the Council’s Parking Standards. 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.

Notwithstanding the above, the comments raised by objectors in respect of the width of Clement Street is noted, but the proposed development would be an enhancement to the existing situation as it proposes a suitable manoeuvring area for vehicles to turn around which does not currently exist, and which will benefit existing residents on Clement Street as well as those moving in to the proposed dwellings. Therefore, once the site is developed it is not considered that the situation in respect of cars parking on the existing part of Clement Street would be exacerbated.

Trees

The survey submitted with the application revealed 45 items of woody vegetation, comprising of 40 individual trees and 5 groups of trees or shrub / hedge groups. Of the surveyed trees: 10 trees or groups are retention category ‘B’ and the remaining 35 trees or groups are retention category ‘C’.

The report concludes that the higher value retention category ‘B’ trees and groups should be retained, where possible, and incorporated into any new development design. If required the lower value retention category ‘C’ trees and groups could be removed and replacement planting would mitigate their losses.

Policy CS21 ‘Landscape’ states: *“New development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough’s landscapes...”*

Policy SP32 ‘Green Infrastructure and Landscape’ states: *“The Council will require proposals for all new development to support the protection, enhancement, creation and*

management of multi-functional green infrastructure assets and networks including landscape, proportionate to the scale and impact of the development...”

The indicative layout plan shows that the proposal would result in the loss of all but 7 category ‘B’ trees, with a replacement of 4 trees shown on the indicative plan. No information of the replacement planting species / size details or tree protection details have been submitted as part of this outline application and further detailed information would be required as part of any future reserved matters application.

The Council’s Trees and Woodlands Service have noted that the area provides a good level of amenity to the local area and whilst it is in need of some management its structure is good and its loss as a woodland will be a great loss to the area and the development is considered to have a long-term detrimental impact on the green infrastructure of the area. Accordingly, the woodland has recently been protected by TPO No. 1 2019.

It was noted during the confirming of the TPO that it was recommended to ensure the trees would not be removed before the determination of this planning application. It was further noted that the TPO legislation is not intended to be used as a block against appropriate development, indeed where planning permission has been granted and the implementation of that permission requires tree works to take place (including tree removals), then the planning permission over-rides the TPO.

In addition, the intention of the TPO was to protect the trees whilst this planning application is assessed so that the trees are not removed prematurely and also to highlight the importance of the woodland as an important asset to the area and its many residents.

It was stated in the report to members for the TPO that if a development proposal for the site can show that it will replace the lost trees and habitat and also be in line with the Government’s proposals for sustainable development as described in the National Planning Policy Framework and the 25 Year Environment Plan (both of which describes the need to provide net gains in biodiversity), then a planning permission for development could be supported.

In light of the above it is recommended that a commuted sum be paid of £320 for each tree/group of trees removed (as identified in the AWA Arboricultural Report, dated June 2108, and as part of any reserved matters application) so that the lost green infrastructure and amenity can be replaced within 500 metres of the site in the form of tree planting. This off-site tree planting will be confined to land owned / controlled by the Council within this catchment, which will include parks and there will be highways planting locations that could be explored – though Park sites will be prioritised first of all. It is considered that the benefits of developing this site for housing, given it is allocated residential within a sustainable location, together with the replacement tree planting would overcome the loss of the trees from the site, many of which are category ‘C’ specimens.

The £320 figure is based on the following costs involved with establishing trees:

Provision of a tree (12-16cm)	£100
Planting Costs (current contract)	£65
Watering Costs - 3 water/year x 3	£60

years	
10 year Maintenance costs	£35
Site visit/Inspection 2/year x 2 years	£30
10% for failed planting	£30
Total Cost	£320

The Council's Trees and Woodlands Service have noted that subject to the s106 contribution to mitigate for the lost green infrastructure and amenity and recommended conditions to require detailed landscape proposals and the protection of retained trees during construction, there would be no objections to the scheme. Upon payment of the s106 a planting plan will be designed by the Council's Tree Service and circulated to Ward members before implementation.

Ecology

A biodiversity report and survey was submitted with the application. The survey concluded that no opportunity for roosting bats was identified on the site, as bats are sensitive to artificial lighting, but there is potential for active birds' nests to be destroyed during vegetation removal. Accordingly, the survey recommends that any vegetation clearance works should be undertaken outside of the bird breeding season.

Policy CS20 'Biodiversity and Geodiversity' states: "The Council will conserve and enhance Rotherham's natural environment. Biodiversity and geodiversity resources will be protected and measures will be taken to enhance these resources ..."

Policy SP33 'Conserving the Natural Environment' states: "Development will be expected to enhance biodiversity and geodiversity on-site with the aim of contributing to wider biodiversity and geodiversity delivery..."

Paragraph 170 of the NPPF states planning decisions should contribute to and enhance the natural and local environment by (amongst other things) minimising impacts on and providing net gains for biodiversity.

It is considered that subject to the recommendations outlined in the submitted Biodiversity survey and report being carried out when the site is either cleared and during construction phase, there would be no adverse impact on the biodiversity of the area, as such this will be conditioned. In addition it is recommended that a Landscape and Ecology Management Plan (LEMP) should be produced and submitted as part of any reserved matters application. Furthermore, biodiversity enhancement can be designed into the site and the dwellings in the form of bat and bird boxes and suitable landscaping, details of which will come forward in any reserved matters application.

Notwithstanding the above it is noted that any works which could damage protected habitats such as nesting birds and bats are covered under separate legislation and as such a relevant informative will be appended to any approval.

In light of the above it is concluded that subject to conditions and additional information submitted with any reserved matters application the development of the site would comply with the requirements of paragraph 170 of the NPPF and Local Plan policies

CS20 'Biodiversity and Geodiversity', SP33 'Conserving the Natural Environment' and SP35 'Protected and Priority Species'.

Drainage

The site is located within Flood Zone 1 and is less than 1ha in area, as such no Flood Risk Assessment is required.

No drainage proposals have been submitted as part of the application to detail how the site will be drained, but Yorkshire Water have indicated that this matter can be dealt with via a condition if planning permission is granted. Accordingly, subject to conditions the scheme would comply with policy CS25 'Dealing with Flood Risk'.

Land contamination

The site has historically been occupied by allotments/gardens in the past. Based on the site's past use as allotments/gardens and the possible presence of made ground and fly tipped/burnt areas, there is some potential for commonly occurring contaminants (i.e. heavy metals, PAHs) to be present within the near surface soils.

Residential development will introduce a sensitive receptor (i.e. human health) to the site with the potential for exposure to soil contamination, if present, in private gardens or areas of soft landscaping.

For the above reason it is recommended that a limited Phase II Intrusive Investigation is undertaken to assess for the potential presence and extent of contamination and to adequately characterise ground conditions across the site to provide the necessary geotechnical data for foundation design.

Remediation works may be required to bring the site to a suitable condition to be protective of human health for its proposed end use.

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 08, 09, 15 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 02, 05, 08, 14, 15 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

General

01

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

Reason

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

02

Before the commencement of the development, details of the layout, scale, appearance, access and landscaping of the site shall be submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason

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

03

The detailed plans to be submitted in accordance with this outline permission shall include existing and proposed levels across the site.

Reason

For the avoidance of doubt, due to the significant changes in level on the site.

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

Details of road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason

No details having been submitted they are reserved for approval.

Drainage

06

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

Reason

In the interest of satisfactory and sustainable drainage.

07

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

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) the means by which the discharge rate shall be restricted to a maximum rate to be approved by the Local Planning Authority in consultation with the relevant statutory undertaker .

Reason

To ensure that no surface water discharges take place until proper provision has been made for its disposal.

Land Contamination

08

Before the commencement of the development a limited intrusive site investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The 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.

09

Subject to the findings of condition 08 above and prior to development commencing, a Remediation Method Statement shall be provided and approved by the Local Planning 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 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.

10

If subsoils / topsoils are required to be imported to site for garden/soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of testing will need to be presented in a Validation Report.

Reason

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

11

In the event that during development works unexpected significant contamination is encountered at any stage of the process, the Local Planning Authority shall be notified in writing immediately. Any requirements for remedial works shall be submitted to and approved in writing by the Local Planning Authority. Works 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 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 validation data has been approved by the Local Planning Authority.

Reason

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

Ecology

13

The development shall be carried out in accordance with the recommendations set out in Section 4 of the submitted Preliminary Ecological Appraisal prepared by ECUS Environmental Consultants. Thereafter such approved measures shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

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

14

The detailed plans to be submitted in accordance with this outline permission shall include details of a Landscape and Ecology Management Plan (LEMP) which should incorporate features such as:

- New tree planting around the Site boundaries, using native species of local provenance and or berry bearing species, to provide a benefit to nature conservation;
Standard trees on corner plots/verges/boundaries and in gardens (where feasible);
- Garden and verge planting using species with maximum flowering, pollen and nectar production and native berry bearing plants, to provide foraging opportunity for invertebrates and birds;
- Hedgerow/native shrub garden/road boundaries to provide foraging and sheltering opportunities for a range of wildlife;
- Vegetated 'corridors' by creating continuous planting lines around the Site boundary and along garden/road boundaries and verges; and,
- Species rich grassland and wildflower mixes on verges or Public Open Spaces (POS), where present.

Any LEMP should avoid species which are listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) and recommend suitable management

prescriptions which will ensure the establishment, long term survival and improvement of those habitats which are proposed.

The development shall be carried out in accordance with the approved details.

Reason

In order to make adequate provision for species protected by the Wildlife & Countryside Act 1981.

Trees

15

A suitable scheme of proposed tree planting and pits shall be submitted to and approved by the Local Planning Authority prior to the first use of the development hereby approved.

No operations shall commence on site in connection with the development hereby approved until a suitable scheme of proposed tree planting and tree pits have been submitted to and approved by the Local Planning Authority. The scheme shall include the following comprehensive details of all trees to be planted:

- Full planting specification - tree size, species, the numbers of trees and any changes from the original application proposals.
- Locations of all proposed species.
- Comprehensive details of ground/tree pit preparation to include:
 - Plans detailing adequate soil volume provision to allow the tree to grow to maturity
 - Engineering solutions to demonstrate the tree will not interfere with structures (e.g. root barriers/deflectors) in the future
 - Staking/tying method(s).
 - Five year post planting maintenance and inspection schedule.

All tree planting must be carried out in full accordance with the approved scheme in the nearest planting season (1st October to 28th February inclusive). The quality of all approved tree planting should be carried out to the levels detailed in British Standard 8545, Trees: from nursery to independence in the landscape - Recommendations.

Any trees which die, are removed, uprooted, significantly damaged, become diseased or malformed within five years from the completion of planting, must be replaced during the nearest planting season (1st October to 31st March inclusive) with a tree/s of the same size, species and quality as previously approved.

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.

Construction Management Plan

16

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

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

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

The approved measures shall be implemented throughout the construction period.

Reason

In the interests of highway safety and residential amenity.

Informatives

01

The development should be designed and built to Secured by Design standards.
www.securedbydesign.com

02

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.

03

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.

In the absence of mitigation, where vegetation removal is scheduled during March–August (inclusive), there is potential for active bird nests to be destroyed during Site vegetation clearance works.

As such, any vegetation removal should ideally be programmed to be undertaken outside of bird breeding season, i.e. between September and February (inclusive). If it is not possible to schedule clearance works for these months, a nesting bird check by a suitably qualified Ecologist will be required no more than two days prior to vegetation clearance, to identify the presence of active bird nests.

An active nest would require an exclusion zone to be established and adhered to until chicks have fledged and/or the nest is no longer in use (to be monitored and confirmed by an Ecologist).

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 in respect of the indicative layout so that it was in accordance with the principles of the National Planning Policy Framework.

Application Number	RB2019/0738
Proposal and Location	Erection of 1 No. dwellinghouse and cycle store, land rear of 46 Aughton Road, Swallownest
Recommendation	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 the rear garden of No. 46 Aughton Road, a corner property including a small shop unit, with Alexandra Road running down the side of the property.

The property has a substantial 40m rear garden with a shared access track to the rear that leads to domestic garages which serve the dwellings on Aughton Road.

The character of the area mainly consists of semi detached and terrace properties dating from the Edwardian period, with later 20th century bungalows and detached dwellings further along Alexandra Road.

Background

RB2006/0579 - Outline application for the erection of a detached dwellinghouse – REFUSED

01

It is considered that the proposal will, by virtue of its lack of sufficient amenity space for no. 46 Aughton Road, constitute over development of the site and will thereby be in conflict with UDP Policy HG4.4 Backland & Tandem Development and Supplementary Planning Guidance 3, Residential Infill Plots, to the material detriment of residential amenity.

02

It is considered that the proposed development if granted permission will set an undesirable precedent which will make future similar proposals difficult to oppose.

Proposal

The proposal is for full planning permission for the erection of dormer bungalow. The dwelling includes three bedrooms, one at ground floor and two in the roofspace, and has been designed so as not to overlook adjoining gardens. The bungalow is to include a mixture of render and brickwork with a timber Tudor style detailing to the front gable replicating an inter war appearance. A small shed/cycle store is also proposed.

The dwelling has been amended during the course of the application to remove a dormer window to the rear to prevent overlooking of neighbouring gardens. The loss of the window has been compensated by high level rooflights and a larger end gable window looking towards the host property.

The property will include two off street parking spaces and be provided with a garden area of approximately 89sqm and the host property will be provided with two off street parking spaces and a 100sqm rear garden. The parking areas will be adjacent to each other and provided with sliding gates. An existing vehicular access to the rear of 46 Aughton Road, off Alexandra Road, would be closed off.

Development Plan Allocation and Policy

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

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

Core Strategy policy(s):

CS28 Sustainable Design

Sites and Policies Document:

SP12 Development on Residential Gardens

SP55 Design Principles

Other Material Considerations

South Yorkshire Residential Design Guide.

Council's Parking Standards

The revised NPPF came into effect in February 2019. It states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise."

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

Publicity

The application has been advertised by way of site notice along with individual neighbour notification letters to adjacent properties. The Council has received 10 letters of objection including one from the Parish Council. The comments are summarised below:

Neighbour comments:

- Parking on this end of Alexandra Road is very difficult at the best of times. We have people parking on here who live on King Street and also people who live on Aughton Road. We also have the sandwich shop on one end and the chip shop, both of which create traffic and the road is a main route into the Rosegarth estate.
- This will cause more parking problems with people parking too close to junctions and this in turn will create more accidents as visibility up and down the road is reduced further
- Directly opposite my house if parking is limited further I am concerned about the possible detriment to my property value
- Parking permits are required on the street.
- The new driveways should be single width only to provide additional on street parking.
- Parents picking children up from school also park on the street which makes this area a thoroughfare for school children so it is an accident waiting to happen.
- The view from my upstairs window at the moment is quite pleasant and I do not want this to change.
- The new house will look straight into our home and we will have no privacy.

Aston cum Aughton Parish Council:

- It would be inappropriate development because of the road safety and on street parking problems it would create in an already very congested area in close proximity to the A618 highway.
- Also it would be unnecessary overdevelopment of a 'backland' site.

Consultations

RMBC - Transportation and Highways Design: Raise no objections to the proposals in a highway context subject to a condition relating to hard surfacing of the parking areas.

RMBC – Land Contamination: Recommends conditions in case contaminated land is encountered during development.

RMBC – Environmental Health: Recommends informative relating to dust and noise.

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 be taken into consideration in the determination of the application are as follows –

- The principle of the development
- The design, layout and impact on the streetscene
- The impact on local amenity
- Highway access & parking
- Other matters raised by objectors

The principle of the development

Policy SP 12 'Development on Residential Gardens' states that:

“Proposals involving development on a garden or group of gardens, including infill of corner plots, will only be permitted where:

- a. the proposals would allow for a comprehensive scheme in the wider area to be achieved in the future; and
- b. the proposal does not harm the amenity of existing properties by overlooking, loss of privacy, loss of light or obtrusiveness; and
- c. development would not result in harm to the character of the area.”

The application site is allocated for Residential use in the adopted Sites and Policies Document, and is located within an established residential area. The site forms part of a rear garden and as such should comply with Policy SP12. Firstly in terms of criteria (a) it is not considered that the rear gardens of all the dwellings should be comprehensively developed in this location as this would harm the character of the area, as such a single dwelling positioned adjacent to the road is considered acceptable. Turning to criteria (b) and (c) these are discussed in more detail below.

A previous refusal in 2005 noted that the proposed development at that time would set an undesirable precedent which will make future similar proposals difficult to oppose. In terms of the character of the area the detailed plans show a good quality dwelling, which is accessed immediately off Alexandra Road and does not rely on the rear unmade track for access. As such the scheme is a one off and would not set a precedent for additional dwellings in neighbouring rear gardens, which do not benefit

from immediate highway access. It is therefore considered that the scheme addresses the previous reason for refusal in the 2005 application.

It is therefore considered that the principle of residential development is acceptable in this instance subject to all other material planning considerations being acceptable.

The design, layout and impact on the streetscene

Core Strategy CS28 'Sustainable Design' requires development to make a positive contribution to the environment by achieving an acceptable standard of design.

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."

Sites and Policies Document Policy SP55 'Design Principles' states "All forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings.

Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals: (amongst other things)

- the setting of the site, including the size, scale, mass, volume, height, orientation, form, and grain of surrounding development;
- 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;"

The proposed dormer bungalow is small and modest in size and will not appear out of keeping within the streetscene. Furthermore the dwelling has been well designed in an inter war style and will add visual interest in the streetscene. The use of different materials and a Tudor style detailing to the front gable feature are also welcome.

Objectors have raised concerns about the loss of the view out over the adjoining gardens. There is no right to a view and moreover the new bungalow will screen a number of utilitarian garages with asbestos roofs, whilst providing additional overlooking to the public footpath in an otherwise large expanse of fencing.

The previous refusal in 2005 noted that the proposed development at that time would, by virtue of its lack of sufficient amenity space for no. 46 Aughton Road, constitute over development of the site contrary to Policy. The Parish Council considers that the proposal will result in an unnecessary overdevelopment of a 'backland' site. That application was an outline permission that indicated that the host property would have a small garden, well below the 100sqm proposed under the current proposals. The detailed plan submitted allow for the provision of a good standard of amenity for both

the host property and the new dwelling and would not represent overdevelopment of the site.

It is therefore considered that the proposal is acceptable in design terms, and that it is in keeping with the locality in terms of design, materials, scale and massing. In this regard it complies with Core Strategy Policy CS28 Sites and Policies Document Policy SP55, and policies within the NPPF.

The impact on local amenity

Sites and Policies Document Policy SP55 Design Principles states, amongst other things: "Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals:

(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."

The supporting text to the Policy states: "4.323 Development proposals will be required to demonstrate that they have appropriately taken account of and mitigated against any site constraints which may have a detrimental impact upon amenity, including privacy, direct sunlight or daylight. The design and layout of buildings must enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from unacceptable overshadowing. The Building Research Establishment (BRE) provides good practice guidance in "Site Layout Planning for Daylight and Sunlight: a guide to good practice" (BRE, 2011.)"

The NPPF notes at paragraph 127 that: "Planning policies and 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

The applicant has designed the dwelling to prevent overlooking of neighbouring dwellings and a rear dormer has been removed to prevent overlooking of neighbouring gardens. The overall massing of the dwelling has been kept to a minimum so as not to appear overbearing when viewed from neighbouring gardens. The proposed rooflights to the rear are high level and will not result in any overlooking.

It is noted that the front elevation of the new dwelling is some 15m off the front elevation of the terrace house opposite. This arrangement is not unusual in a street setting where the highway is a public space and such an arrangement is present elsewhere on Alexandra Road.

In order to protect the amenity of neighbouring dwellings permitted development rights have been removed, as significant additions to the dwelling could be constructed under permitted development which would potentially harm neighbouring amenity. In addition it is important that additional windows are not installed.

As such, taking account of the above, it is considered that the proposed development would be in accordance with the Sites and Policies Document Policy SP55 'Design Principles' and advice contained in paragraph 127 of the NPPF.

Highway access & parking

Paragraph 108 of the NPPF states that: “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that.....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”.

The Council’s Parking standards state that: 3 or 4 bedrooms dwellings should have 2 No. parking spaces.

The majority of the objectors have raised concerns regarding the parking situation on Alexandra Road which is exacerbated by parking relating to school drop offs/pick-ups.

This is an existing situation and the applicant proposes two off street parking spaces for both the host property and the new dwelling. Whilst the two new openings will result in the loss of two on street parking spaces, an existing access to the rear of 46 Aughton Road, off Alexandra Road, would be closed off. The effective loss of on street parking would, therefore, be a single space. The level of parking proposed meets the Council’s minimum Parking Standards and it is noted that the site is located in a sustainable location close amenities and public transport links.

The Council’s Highway Officer does not consider that the proposal will cause any highway safety concerns and the residents request for parking permits has been passed onto the Streetpride for further consideration. As such the scheme accords with paragraph 108 of the NPPF.

Other matters raised by objectors

An objector has raised concerns regarding the impact upon house prices within the area. This is not a material planning consideration.

Conclusion

The proposed new dwelling is an acceptable addition which will not harm neighbouring amenity, highway safety or the character of the area. As such it complies with SP 12 Development on Residential Gardens, CS28 Sustainable Design & SP55 Design Principles as well as the guidance contained within the NPPF.

Conditions

01

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

Reason

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

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the

submitted details and specifications as shown on the approved plans (as set out below)
(Proposed Site Plan 2019-025-02) (Received 10 May 2019)
(Amended Proposed Elevations and Floor plans 2019-025-03) (Received 3 July 2019)
(Proposed Streetview 2019-025-04) (Received 3 July 2019)

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

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

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

The development shall not be occupied until the boundary detailing on the approved site plan 2019-025-02 has been implemented.

Reason

In the interest of neighbouring amenity.

06

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.

Reason

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

07

If subsoils / topsoils are required to be imported to site for garden or soft landscaping areas, then these soils will need to be tested at a rate and frequency to be agreed with the Local Planning Authority to ensure they are free from contamination. The results of testing will need to be presented in the format of a Validation Report.

Reason

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

08

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or re-enacting that Order with or without modification) no enlargement of the dwellinghouse, permitted under Part 1, Classes A, B, C, and D, or outbuilding under Class E, shall be carried out without the prior written approval of the Local Planning Authority, nor shall any additional windows be installed to the rear roofslope.

Reason

So that further alterations and extensions can be controlled by the Local Planning Authority in order to protect neighbouring amenity and the character of the area.

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 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.

10

A plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed before the development is brought into use.

Reason

In the interests of the visual amenity of the area and in accordance with the Local Plan.

11.

The development shall not be occupied until the vehicle access (dropped kerbs) indicated on the approved plan has been provided.

Reason

In the interest of highway safety.

12.

Concurrent with the construction of the proposed vehicular access, the existing vehicular access to Alexandra Road shall be closed, the kerblines/footway reinstated and the "H" marking in the carriageway removed.

Reason

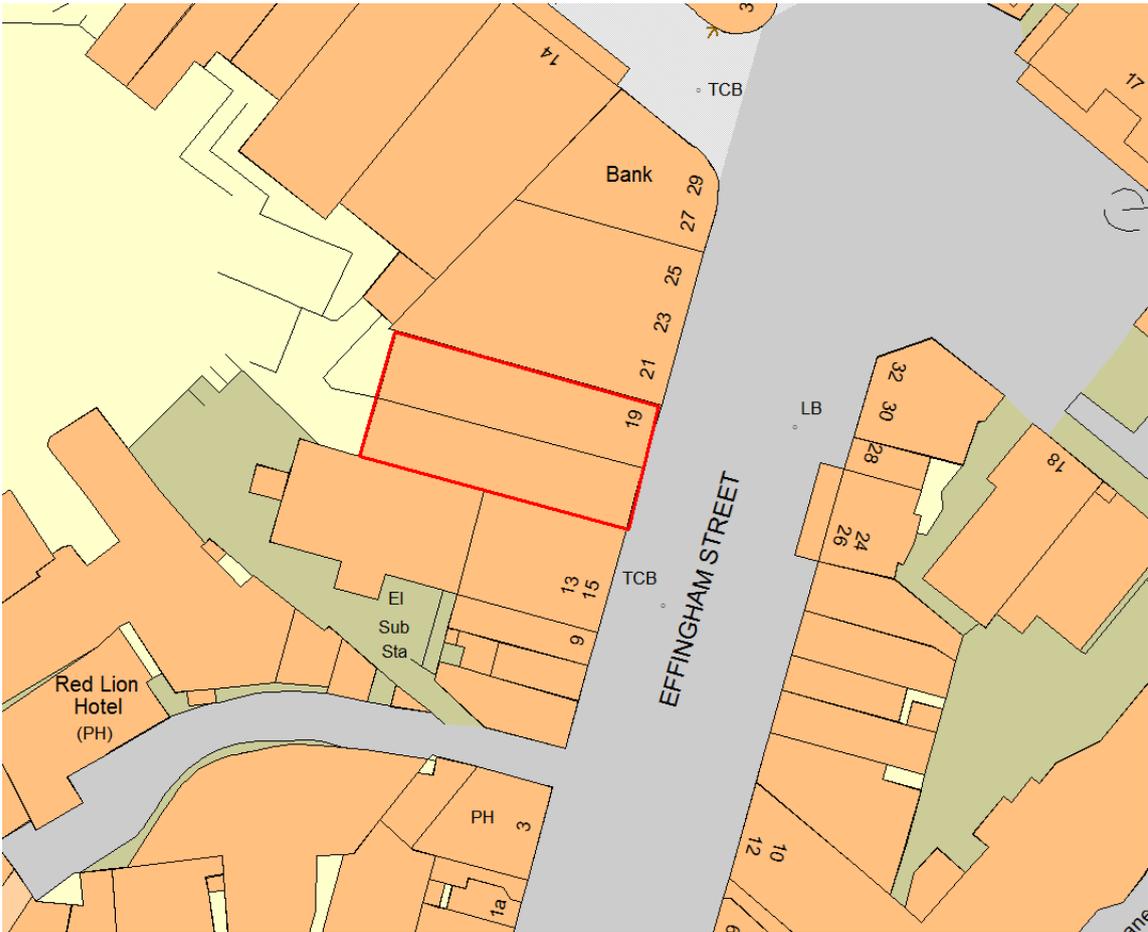
In the interest of highway safety.

POSITIVE AND PROACTIVE STATEMENT

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

Application Number	RB2019/0875
Proposal and Location	Retention of ground floor and part first floor for retail use (use class A1), extension to flat roof and formation of 10 no. studio apartments (use class C3) on existing first and second floors and within the new roof extension at 17 & 19 Effingham Street, Rotherham Town Centre, S65 1AJ
Recommendation	Grant Conditionally

This application is being presented to Planning Board as the application is a major scheme in line with the Scheme of Delegation



Site Description & Location

The application site sits in Rotherham town centre on one of the main pedestrianised streets which consists of a variety of shops, food outlets and drinking establishments.

The site sits close to the square at the intersection of Effingham Street and Howard Street, close to the Grade II Listed Old Town Hall and entrance to the Markets.

The site contains two buildings which have shop fronts facing Effingham Street, with service yard to the rear which is shared by other businesses. The building like others in the row is three-storey and flat roofed.

Background

There have been numerous planning applications submitted relating to this property, none of which have any implications on the current scheme.

It is of note that a similar proposal was approved last year for the adjoining building 21 – 25 Effingham Street:

RB2018/0372 – Retention of ground floor and part of first floor as retail (use class A1), extension to flat roof and formation of 2 no. short term let apartments and 9 no. short term or long term let apartments on the existing first and second floors and within the new roof extension – Granted Conditionally – 25/10/18

The above scheme was approved under delegated powers as it did not constitute a major scheme as a result of the residential split between short and long term occupation.

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 seeking permission for the retention of ground floor and part of first floor as retail (use class A1), extension to flat roof and formation of 10 no. studio apartments (use class C3) on the existing first and second floor and within the new roof extension.

The roof extension would be set back from the front of the building by approximately 7 metres and would be sited behind the existing parapet wall. The structure will be of a lightweight metal construction with recessed windows.

Internal alterations are proposed at first and second floor but no alterations are proposed to the two retail units at ground floor which will be retained. Access to the first floor, and above will be via a new access from the first floor of the adjacent building and the new access approved under RB2018/0372.

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

Design and Access Statement

The document provides details of the site and the proposal in addition to site photographs, proposed materials and a statement from the landlord.

Heritage Statement

This statement provides details of the site context in relation to surrounding Heritage Assets, the design of the proposal and how it will impact on the Heritage Assets.

Transport Statement

This document provides information of local public transport services and confirms a copy of this document will be provided to future residents.

Visual Impact Assessment

This document provides various existing and proposed photos with the roof extension added to show the impact on the Rotherham Minster.

Flood Statement

This statement confirms that the site lies within Flood Zone 2 and that the first, second and new roof extension are unlikely to be affected.

Waste Management Plan

The proposal confirms that although waste will increase from the existing use, there is a private rear yard which has designated refuse areas. The bins / containers in the rear yard will be increased and the refuse will be collected in accordance with the current RMBC waste collection policy.

Development Plan Allocation and Policy

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

The application site is allocated for Retail purposes in the Local Plan, and is on a Primary Shopping Frontage, and is also directly adjacent to the Rotherham Town Centre Conservation Area. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS12 'Managing Change in Rotherham's Retail and Service Centres'
CS13 'Transforming Rotherham Town Centre'
CS23 'Valuing the Historic Environment'
CS27 'Community Health and Safety'
CS28 'Sustainable Design'
SP19 'Development Within Town, District and Local Centres'
SP20 'Primary Shopping Frontages'
SP40 'Listed Buildings'
SP41 'Conservation Areas'
SP55 'Design Principles'
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.

South Yorkshire Residential Design Guide

Publicity

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

Consultations

RMBC - Transportation Infrastructure Service: Have no objections subject to condition.

RMBC - Environmental Health: Have no objections.

RMBC – Conservation (Consultant): Have no objections.

RMBC – Drainage: Have no objections.

RMBC – Ecologist: Have no objections.

Historic England: Have no comments to make.

Appraisal

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

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

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

The main considerations in the determination of the application are:

- Principle of development

- Design issues
- Impact on Heritage Assets
- Amenity issues
- Highway issues

Principle

The site is located in the Rotherham Town Centre and the proposals seek to deliver:

- The retention of ground floor and part of first floor for retail occupancy
- The change of use of part of first floor to residential
- New created floor space at second, third and fourth level for residential use
- The residential shall consist of 10 no. studio apartments

Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' recognises that Rotherham town centre as the borough's principal town centre and proposals will be expected to demonstrate how they contribute towards the strategy, which for the Town Centre is to maintain and enhance its role as the principal town centre.

Policy CS13 'Transforming Rotherham Town Centre' sets out specific policy for the town centre, which includes promoting sustainable urban living.

The site is also located within a Primary Shopping Frontage, accordingly policy SP20 'Primary Shopping Frontages' will be applicable. SP20 states: *"To protect and enhance the concentration of A1 shops within Primary Shopping Frontages proposals for A2 financial and professional services and A3 restaurants and cafés uses at ground floor level will be supported where it can be demonstrated that they would:*

- not dilute the concentration of A1 shops in the Primary Shopping Frontage below 65%, or further reduce the current percentage of A1 shops where the concentration is already below 65%; and*
- not detract from the appearance and character of the frontage; and*
- retain an active frontage and where the proposal relates to a premises with an existing shop front, the shop window would continue to be used for display purposes.*

Uses other than those identified above (except for public toilets, baby changing and breast feeding facilities) will not normally be supported at ground floor level."

The proposed development would not jeopardise the retention of the units for retail use at ground floor and as such the proposal would not be in conflict with policy SP20.

It is considered that this application could contribute towards the vitality and viability of the Town Centre as the application brings an additional 24 hour use of the building in the town centre whilst retaining the retail use below.

Accordingly, with regard to the above the principle of development is acceptable.

Design

The NPPF at paragraph 124 states: *"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good*

design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Paragraph 127 of the NPPF states planning decisions should ensure that developments add to the overall quality of the area are visually attractive as a result of good architecture and are sympathetic to the local character.

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

With regard to the proposed development, the external renovation and refurbishment raises no issues and will help enhance the character and appearance of the building. In respect of the proposed roof addition, it is considered to be a modern, lightweight and contemporary structure that is of a size, scale, form, design and siting that would be sympathetic to the local character of the area and the building, be visually attractive and would contribute positively to the distinctiveness of the area. In addition to the above a similar scheme has recently been approved on the neighbouring property.

With regard to materials it is expected that these will be the same as those to be used in the similar extension on the adjoining building, this would be grey metal cladding with anthracite grey window and door frames. These will be finalised through a condition.

It is therefore considered that the proposal would raise no design issues and complies fully with the paragraphs of the NPPF and adopted Local Plan policies detailed above

Impact on Heritage Assets

There are a number of designated heritage assets within the vicinity of the application site, including the Grade I listed Minster Church of All Saints Rotherham, a central landmark within the town since the fifteenth century, as well as a number of Grade II listed buildings. The site is also adjacent to the Rotherham Town Centre Conservation Area.

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

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

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

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

The proposed roof top extension is in part 4 storeys (from ground level) but due to the massing of the existing buildings, it will only sit one to one-and-a-half storey above the highest point of the existing building which steps up at two storey level from Effingham Street.

Based on the submitted street scene and views, the proposed development will not impact on the setting of any of the adjacent listed buildings or key views of them and it would have no adverse impact on the character or appearance of the Conservation Area as views of the roof structure would be minimal within the Conservation Area and views from further afield would not be detrimental as the structure would be viewed amongst other buildings. As such it is considered that the scheme is acceptable on conservation grounds.

Therefore having regard to the above it is considered that the proposal would not affect the character, appearance or setting of any Heritage Asset, and for the reasons detailed above the proposal would comply with paragraphs of the NPPF and the Local Plan policies referred to above.

Amenity

Paragraph 127 states, amongst other things planning decisions should create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life.

Policy CS27 'Community Health and Safety' states development will be supported which protects, promotes or contributes to securing a healthy and safe environment.

It is considered that the proposed introduction of residential units to the first, second and new third floor of the building in this town centre location would not affect the amenity of future occupants in respect of noise and general disturbance from neighbouring uses. This is due to the fact that the neighbouring units are predominantly day-time uses.

In addition it is noted that all 10 units meet the minimum internal room size standards for studio apartments which are set out in the South Yorkshire Residential Design Guide. Further to this the outlook from all apartments would be acceptable as they will either look over Effingham Street to the front or over the yard at the rear and there is sufficient distance beyond the rear yard to other buildings to ensure there is no significant overlooking or overshadowing.

It is therefore considered that the proposed development would comply with the relevant paragraphs of the NPPF and the adopted policies of the Local Plan referred to above, and would accordingly raise no amenity issues for future residents.

Highways

Although no car parking provision appears to be available within the site, the premises are ideally located to benefit from non-car modes of travel. Therefore, there are no objections subject to a condition requiring details of how the use of sustainable/public transport will be encouraged.

Other considerations

It is noted that the site sits within a Flood Zone 2, however as the works relate to the existing first and second floors and the proposed roof extension, it is not expected that the proposal will be impacted by any flooding should it occur in the future. The Council's Drainage Engineer has confirmed that they have no issues with the proposal.

The site is located within a Bat Zone, the Council's Ecologist has indicated that the proposal would not have any significant ecological impact partly because the roofs are flat and therefore there are no roof voids for bats or nesting birds and partly because of the urban well-lit setting which will preclude bats. Bats are also unlikely because of the lack of suitable foraging nearby. Consequently, there are no ecological issues with proposal.

The applicant has provided a Waste Management Plan in order to satisfy policy WCS7 'Managing Waste in All Developments'. It is considered that the plan is acceptable and a suitable condition will be imposed to ensure the Waste Management Plan is adhered too during the life of the development.

Conclusion

It is concluded that, subject to conditions, the proposal would represent an acceptable and appropriate use of the building, with an extension that is of an appropriate design which does not adversely affect the character or appearance of the host property, its setting in the streetscene or the historic character of neighbouring heritage assets. Additionally, the proposal would raise no amenity or highway issues. Therefore, the application for the reasons detailed above is in full compliance with national and local planning policies and guidance and is recommended for approval.

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)

4573 A 02 001 rev A, received 4 June 2019

4573 A 02 006 rev B, received 4 June 2019

4573 A 02 007 rev A, received 4 June 2019

4573 A 02 004 rev C, received 25 June 2019

4573 A 02 005 rev C, received 25 June 2019

Reason

To define the permission and for the avoidance of doubt.

03

No construction work on the roof extension 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.

04

Prior to the first occupation of the development hereby approved, 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

05

The development shall be carried out in accordance with the details outlined in the submitted and approved Waste Management Plan, dated June 2019. Thereafter such approved measures shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

To ensure the development has a suitable Waste Management Plan in accordance with policy WCS7 'Managing Waste in New Developments'.

Informatives

01

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

02

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

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

POSITIVE AND PROACTIVE STATEMENT

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.