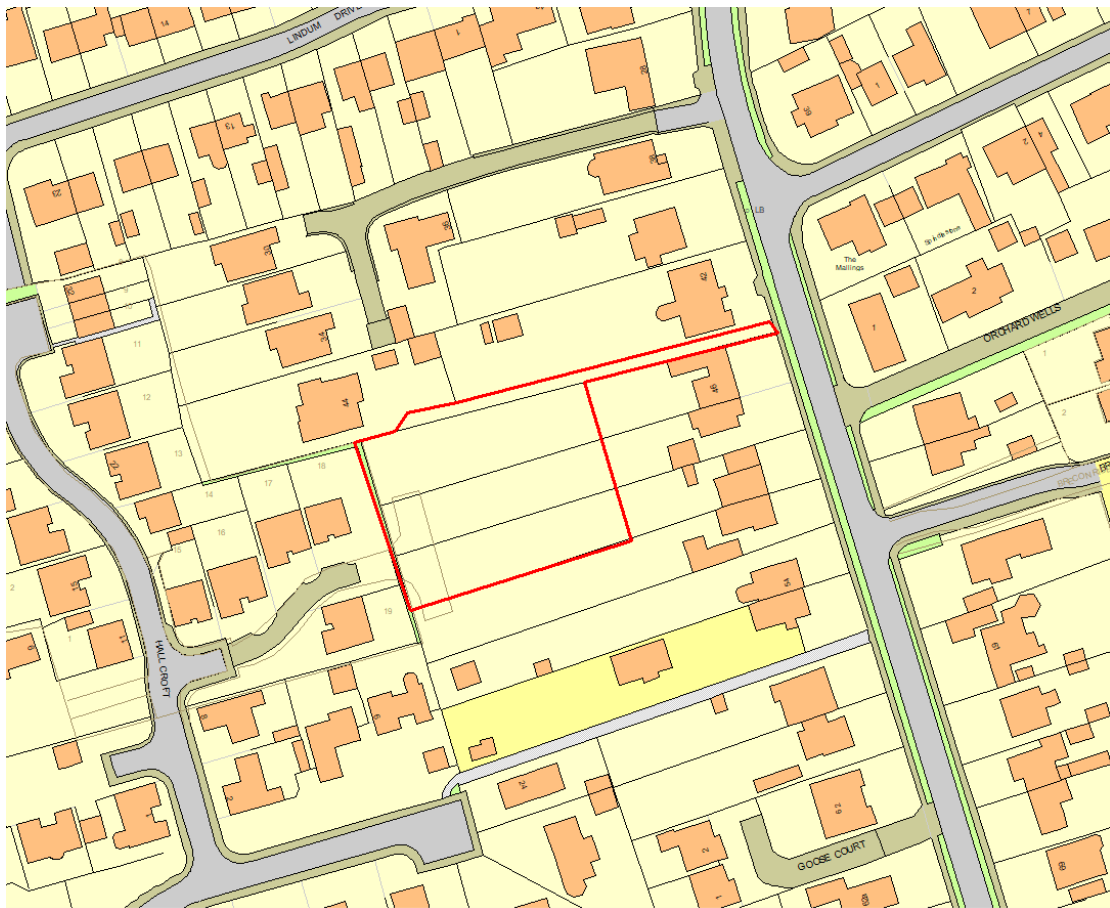


**REPORT TO THE PLANNING BOARD
TO BE HELD ON THE 17 DECEMBER 2020**

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	RB2020/1350 https://rotherham.planportal.co.uk/?id=RB2020/1350
Proposal and Location	Erection of 2 no. dwellinghouses with integral garages & widening of existing private driveway at land to rear of 46 and 48 Goose Lane, Wickersley
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 comprises of the existing private drive between the side of nos. 42 and 46 Goose Lane that is currently used to access no. 44 Goose Lane which is sited at the bottom of the single access road. It also comprises of part of the rear gardens of 46, 48 and 50 Goose Lane.

Along the site's western boundary there are 5 trees protected by TPO No. 5 2012. Another TPO was issued for the whole of the site which covers the 5 previously protected trees as well as an additional tree in this location (TPO No. 14 2020).

Beyond the western boundary of the site is a recently built development on Hall Croft.

To the south of the site are the rear gardens of other properties on Goose Lane, and a development of two bungalows to the rear of no. 56 Goose Lane (Ref: RB2012/0028).

To the north is the rear garden of no. 42 Goose Lane, further north is a backland development of 5 dwellings (4 two storey detached dwellings and 1 detached bungalow) to the rear of no. 38 and 40 Goose Lane (Ref RB2014/0294).

Background

There have been several previous planning applications submitted relating to this site:

RB1989/0072 – Outline application for a bungalow – Refused 27/02/1989

RB2001/0147 – Outline application for erection of 2 detached dwellinghouses – Refused 12/06/2001 and Dismissed at Appeal 22/11/2001

RB2012/0281 – Erection of 2 no. bungalows with integral garage – Refused 30/05/2012 and Dismissed at Appeal 12/03/2013

CIL

The development is Community Infrastructure Levy (CIL) liable. CIL is generally payable on the commencement of development though there are certain exemptions, such as for self-build developments. The payment of CIL is not material to the determination of the planning application. Accordingly, this information is presented simply for information.

Proposal

The application is for the erection of two detached dwellinghouses.

The proposal will involve the removal of the existing car port and garage from the side of no. 46 Goose Lane to enable the existing private driveway to be increased in width to 5 metres.

The two dwellings would be two-storey and would be orientated with the front elevations facing north and rear elevations south. Each property would have a front and rear garden with in-curtilage parking and both would be of a different design.

Plot 1 would be the larger of the two properties. It would be have a wider footprint than Plot 2, and would be slightly higher to the ridge line, with Plot 1 being approximately 9.4m high and Plot 2 being approximately 9.2m high. Plot 1 would have a dual gable front with a full length glazed recess section between, comprising the entrance door. An attached double garage would project off part of the front elevation and the rear elevation would have an orangery type off-shot.

Plot 2 would have similar double gable frontage with glazed recess section, but would have an integral garage. It would be sited approximately 10m off the western boundary and approximately 9m from the protected trees along this boundary. Its rear elevation would have rooflights and would have a mono-pitched single-storey rear off-shot running along the majority of its rear elevation, which would have rooflights in.

The proposal will provide the occupant of no. 46 Goose Lane with a new parking space to the rear of the property off the new widened private driveway.

A turning facility will also be provided between the properties and this could potentially open up the land to the rear of nos. 52 and 54 for future development, which would effectively complete the potential for backland development in this location.

Both properties would be constructed in red brick with Plot 1 having a grey roof tile and Plot 2 having a red roof tile.

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

Arboricultural Survey

The report noted that six trees stand on the plot in a row along the rear boundary of the gardens and are protected by a Tree Preservation Order (TPO). A dead Willow stands off the site in the garden of 48 Goose Lane and a Silver Maple stands off the site in the rear garden of 52 Goose Lane. The quality of the tree stock on the site itself is good. Numerous small diameter shrubs and poor quality small diameter fruit trees stand on and adjacent to the site and have been excluded from the survey.

The trees along the rear boundary and within the rear garden of no. 52 Goose Lane will be protected during the construction phase. The dwellings are to be sited away from their root protection areas.

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.

There are 6 trees within the site along the western boundary with properties on Hall Croft that are protected under TPO No. 14 2020.

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'
 CS21 'Landscapes'
 CS25 'Dealing with Flood Risk'
 CS27 'Community Health and Safety'
 CS28 'Sustainable Design'
 CS30 'Low Carbon & Renewable Energy Generation'
 CS33 'Presumption in Favour of Sustainable Development'

SP12 'Development on Residential Gardens'
 SP26 'Sustainable Transport for Development'
 SP32 'Green Infrastructure and Landscape'
 SP47 'Understanding and Managing Flood Risk and Drainage'
 SP52 'Pollution Control'
 SP55 'Design Principles'
 SP64 'Access to Community Facilities'

Other Material Considerations

National Planning Practice Guidance (NPPG)

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

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

Rotherham Supplementary Planning Document SPD2 Air Quality & Emissions (adopted June 2020)

Council's adopted Parking Standards

South Yorkshire Residential Design Guide

Publicity

The application has been advertised by way of site notice along with individual neighbour notification letters to adjacent properties. 14 letters of representation have been received, 9 objecting to the proposals (including one from Wickersley Parish Council) 4 supporting the proposals, and 1 being neutral.

8 letters received from local residents raised objections to the scheme, and these are summarised below:

- The roof lights in plot 2 providing a view directly into our garden and the garden of 54 Goose Lane.
- These gardens are specifically protected by a covenant enshrined in the deeds of each property.
- The height of the proposed dwellings affect direct sunlight to the garden of 42 Goose Lane. There is space on the plans between the two properties but this won't be visible from my property and as such the proposal will cause an obstruction.
- An application to develop the rear gardens of nos. 48 and 50 (ref: RB2012/0281) for two dwellings was refused as it was deemed at the time to be contrary to the adopted UDP policy HG4.4 'Backland and Tandem Development' and Housing Guidance 2 'Back land and Tandem Development'. It was felt that the development should be undertaken in conjunction with the adjoining gardens off Goose Lane and the site to the rear off Hall Croft / Lindum Drive so as to achieve a comprehensive scheme with a unified means of access. The decision was appealed and the Planning Inspector dismissed the appeal.
- The development of the land to the rear of 46-50 Goose Lane (Hall Croft) was laid out to ensure that there could be a pedestrian and vehicular access to this site from Hall Croft. Indeed, the original owner of the adjoining land retained a small strip of land on the boundary of that site with the current application site and has indicated that he is willing to provide access over it to enable development off Hall Croft.
- No Design and Access Statement has been submitted.
- Is the access safe given there will be three vehicular accesses in close proximity.
- As private drives are only capable of serving 5 dwellings the developer should be requested to show how an adopted highway to the required standards can be achieved in the future.
- We currently have a very pleasant outlook due to the mature, conservation trees along the border line - when the leaves have fallen during the autumn and winter months, the lack of privacy will become even more of an issue should planning be granted.
- We believe the wildlife that visits our garden due to the green surroundings will also be affected by the removal of these green spaces.
- The area is already overdeveloped.
- The proposed properties would be over dominant.

- Foul water drainage is almost at capacity.
- Schools are oversubscribed.
- Loss of privacy.
- The proposed development is a direct contravention of my right under Article 8 of the Human Rights Act which states that a person has the substantive right to respect for their private and family life. The design and height of the proposed houses will have a dominating impact on me and my right to the quiet private enjoyment of my property.

The issues raised by Wickersley Parish Council are summarised below:

- The scale of the proposed dwellings is inappropriate for this backland development and will be overly dominant with regard to neighbouring properties on Goose Lane, a number of which are bungalows.
- The proposed dwellings will overlook the rear gardens of a number of properties and cause significant loss of amenity and privacy to the occupants of those properties.
- The access to three properties will run directly alongside properties on Goose Lane leading to unacceptable noise and disturbance to the occupants.
- The proposal involves loss of parking provision for No 46 Goose Lane with no indication of how this will be replaced without adding to on street parking and thus increasing existing congestion on Goose Lane.
- The access onto Goose Lane has inadequate pedestrian visibility due to the high boundary fencing around No 42, Goose lane. The additional traffic from two new dwellings will result in a danger to pedestrian safety.

4 letters of support were received, being from nos. 44, 46, 48 and 50 Goose Lane, and the reasons are summarised below:

- I have always had concerns that in the event of an emergency the emergency services would not be able to get down to our property due to the very limited 2.5m wide access available currently. This new 5m access would remove this concern allowing access to all emergency vehicles including fire engines.
- The architectural taste of the builds is unquestionably one of the best aesthetically designed I have seen on Goose Lane in our time here, especially when we take into account the close proximity developments on our stretch on the last 30 years. We feel that these builds will not only help 'level out' some of the questionable newer builds, but also encourage a new era of more tasteful builds that aren't merely dropped into a space, sometimes with little room around it. These are designed as real family houses, not a quick stylish statement piece.
- The houses are a good distance from neighbouring properties and have sufficient space around them.
- The proposal makes no difference to the appearance of the road. The plot is set well back of the road.

- The site will be developed at some time and better to go with houses rather than flats as per St Albans Way.
- Given that the steady degradation of amenity and habitat in this area due to development is unstoppable we feel that the proposed development is the best that can be expected at the present time.

The neutral response is from a resident on Hall Croft who notes that “whilst we completely agree that trees are an important part of the overall amenity of the area and are important for environmental and ecological reasons, the existing trees along the western boundary of the site which adjoins our property are large, of poor quality, and increasingly imposing. As part of the landscaping scheme for the site we would like to see the existing trees significantly reduced in size or replaced with more suitable and valuable specimens for a residential suburban area.”

Four Right to Speak requests have been received, one from the Parish Council and three from local residents, one in support and two in objection.

Consultations

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

RMBC – Tree Service: No objections subject to conditions.

RMBC – Environmental Health: No objections.

RMBC – Drainage: No objections subject to conditions.

RMBC – Land Contamination: No objections subject to conditions.

Severn Trent: No comments.

Appraisal

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

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

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

The main considerations in the determination of the application are:

- Principle
- Design
- General Amenity
- Highways
- Trees

Principle

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

Policy SP12 'Development on Residential Gardens' states: *"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."*

In respect of criteria (a) listed above the applicant has provided an indicative plan showing how the gardens to the south could potentially be developed out in the future by obtaining an access between the two properties hereby proposed, furthermore the gardens to the north could also potentially be accessed off the private driveway. Furthermore, should more than 5 dwellings be served from this private driveway in the future there is scope for it to be widened further and could be brought up to adoptable standards. Therefore, it is considered that the current proposal would not prevent development of neighbouring gardens and would allow for a comprehensive scheme to potentially be achieved in the future.

In terms of criteria (b) this will be assessed in greater detail in the amenity section of this report, however in general the properties are sited a sufficient distance from existing properties and rear gardens which would ensure there is no significant overlooking, loss of light, overshadowing or obtrusiveness that would have a detrimental impact on the amenity of neighbouring residents.

Furthermore and in respect of criteria (c) there are several examples of rear gardens being developed on Goose Lane, such that the proposal would not adversely affect the character of the area given the presence of existing similar schemes in the locality.

It is therefore considered that the proposed development would be in compliance with the requirements set out in policy SP12.

Further to the above the site is located within close proximity to local services including schools, places of worship, village hall, recreation spaces and public transport services. As such the site is within a highly sustainable location and would accord with the requirements of CS33 'Presumption in Favour of Sustainable Development' and SP64 'Access to Community Facilities'.

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...*"

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

Design/Layout

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

- a. the setting of the site, including the size, scale, mass, volume, height, orientation, form, and grain of surrounding development;
- b. that an assessment of local building materials, their colour and architectural detailing has been undertaken and submitted with the application;
- c. the use of appropriate materials and landscaping and utilisation of natural features, such as topography, watercourses, trees, boundary treatments, planting and biodiversity to create visually attractive high quality development;
- d. proposals reinforce and complement local distinctiveness and create a positive sense of place; public art should be incorporated into proposals where appropriate;
- f. the provision of satisfactory arrangements for the storage and collection of refuse, recyclable materials and garden waste to enable easy and convenient recycling and composting;
- h. the need to optimise the potential of sites to accommodate development which could, in appropriate instances, involve maximising densities;

The NPPG further goes on to advise that: *“Local planning authorities are required to take design into consideration and should refuse planning permission for development of poor design.”*

The NPPF at paragraph 124 states: *“Good design is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 127 states planning decisions should ensure developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place.

The proposed dwellings sit comfortably on the site with sufficient space for the parking and manoeuvring of vehicles, private amenity space for both of the proposed properties as well as the three existing properties (nos. 46, 48 and 50 Goose Lane). As such it is considered that the development would not constitute overdevelopment of the site, and its layout is considered to be acceptable.

In respect of the properties' design, it is noted that they are of a more modern design than the original properties along Goose Lane, however the more recent backland developments along Goose Lane have introduced more modern dwellings. Accordingly, whilst the proposed dwellings are not reflective of the original properties on Goose Lane there are considered acceptable and would reflect the more recent developments along Goose Lane as well as the recent development to the west on Hall Croft.

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

General Amenity

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

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

Policy SP55 'Design Principles' notes that: "Proportionate to the scale, nature, location and sensitivity of development, regard will be had to the following when considering development proposals (amongst other things):

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."

In respect of amenity there are two elements:

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

Impact of the construction phase on existing local residents

In relation to construction, it is considered that while some noise, dust and disturbance is to be expected with development works of this type, it is important to limit the impact of the works on nearby residents. Good construction practice and appropriate consideration of working hours should ensure that this occurs; the Council will add the standard informative to any approval regarding the construction works and any breach would be covered by the Environmental Protection Act.

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

The South Yorkshire Residential Design Guide sets out inter-house spacing standards which state there should be 21 metres between principal elevations and no habitable room window should come within 10 metres of a boundary with another property.

The proposed dwellings would be sited so that their front and rear habitable room windows would be more than 10 metres from the party boundary with those properties to the north (minimum 15m from the boundary of 42 Goose Lane) and south (minimum 13m from the boundary at the rear with 52 Goose Lane). Furthermore, the rear elevation of nos. 46, 48 and 50 Goose Lane would be sited more than 10 metres from the boundary of Plot 1 (minimum 21m to the boundary and 26m to the proposed dwelling itself) and due to the distance to the side elevation of the proposed dwelling on Plot 1, it would not appear obtrusive or overbearing when viewed from the rear of nos. 46 and 48 Goose Lane. No. 50 Goose Lane would overlook the rear garden area of Plot 1 and not be affected by the proposed dwelling itself.

In addition, given the siting of the dwellings, the distance to neighbouring properties, together with the orientation of the properties they would not appear overbearing or obtrusive when viewed from other surrounding properties and would not give rise to any overlooking, loss of privacy or outlook that would be detrimental to the amenity of neighbouring residents.

It is noted that there some of the issues raised by the objectors relate to amenity and in particular potential overlooking from rooflights in the rear of Plot 2. This particular concern is noted, but as mentioned above the property would be more than 10 metres from the southern boundary of the site, such that it meets the spacing distances and give the nature of rooflights they would not give rise to direct overlooking of neighbouring gardens.

In terms of the height of the properties and impact on sunlight, it is considered that the height of the dwellings are acceptable and there is sufficient distance between the proposed dwellings and those to the north that together with land levels, existing boundary treatments and existing dwellings will ensure that the rear of properties to the north will not be adversely affected in respect of direct sunlight entering the rear garden.

It is noted that the Parish Council has raised concerns that the access to the properties will run directly alongside properties on Goose Lane leading to unacceptable noise and disturbance to the occupants, though it is not considered that the limited traffic movements generated by 2 additional dwellings would have a significant impact on the occupiers of adjoining properties.

It is therefore considered that with regard to amenity issues the proposed dwellings would raise no significant issues to either adjacent occupants or the future occupants of the proposed scheme and as such the proposal would comply with requirements of the NPPF at paragraph 127 and Local Plan policies CS27 'Community Health and Safety,' SP52 'Pollution Control' and SP55 'Design Principles.'

Highways

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

The scheme has been assessed by the Council's Transportation Infrastructure Service and they are satisfied that the width of the access is suitable and visibility at the junction with Goose Lane is acceptable from a safety aspect, in addition, the turning facilities are appropriate. It is therefore considered that the proposal would not have an unacceptable impact on highway safety and as such there are no issues with the proposal from a highways perspective.

Furthermore, given the location of the site the proposed development would be in close proximity to services and amenities, as well as public transport links, cycle routes and footpaths such that the site is in a highly sustainable location and would satisfy the requirements set out at CS14 'Accessible Places and Managing Demand for Travel' and SP26 'Sustainable Transport for Development'.

It is noted that an objector has requested the submission of a plan to show how the existing private driveway could be brought up to adoptable standards in the future. The only plan provided shows how the remaining rear garden areas to the south could potentially be developed and this would result in no more than 5 dwellings being served from the private driveway. Should the gardens to the north also become available for development then there is scope to widen the private driveway further by taking more land to the side of no. 46 or taking land to the side of no. 42 Goose Lane if required.

The Parish Council notes that the scheme will result in a loss of parking to the existing property at 46 Goose Lane, though it is noted that replacement parking would be provided at the rear of this property within its curtilage.

Trees

The site contains protected trees along the western boundary of the site with properties on Hall Croft. There is a further tree in the rear garden of no. 52 Goose Lane, which is outside of the application site.

All the protected trees and the one to the rear of no. 52 will be protected during the construction phase via 2m high protective fencing as set out in the British Standards.

In terms of the proposed dwellings and their impact on the protected trees, Plot 2 has been moved so that it is 9m from the trunk of the protected trees which is beyond their root protection area. As such the proposed dwellings should not affect the protected trees or the existing tree to the rear of no. 52 Goose Lane.

In addition, the applicant has proposed to plant four Heavy Standard trees within the site, each property would have one tree to the front garden, and a further two trees would be planted to the rear of Plot 1.

It is considered that the proposed development would be in compliance with the requirements set out within CS21 'Landscapes' and SP32 'Green Infrastructure and Landscape'.

Other Considerations

Issues raised by objectors relating to the principle of the development, access and highway issues, amenity issues and loss of trees are noted and have been assessed in the prevailing sections of this report.

In respect of some of the other issues raised by residents and the Parish Council, it is of note that the Council's Drainage Engineer has requested further information by way of a condition in respect of drainage details. With regard to the issue raised about schools being oversubscribed, the addition of two dwellings into this area is unlikely to have a significant increase in pupil intake at the neighbouring schools.

It has been raised that these gardens are specifically protected by a covenant within the deeds of each property to prevent their development. Whilst noted this is not a material planning consideration. Any legal matters such as this are dealt with separately from the planning decision making process. A planning decision does not override the need to comply with other legal matters / legislation such as this.

It has also been raised that no design and access statement has been submitted with this application. In this respect the regulations have changed in recent years and the requirement for a design and access statement is only for 'Major' applications (10 or more dwellings or over 1,000sqm floorspace); Listed Building Consent; 1 or more dwellings in the Conservation Area and buildings where floorspace to be created is 100sq.m or more in a Conservation Area. This proposal does not meet any of the above and as such the application was validated without the need for a design and access statement.

A couple of the objectors have raised the issue that an application to develop this land in 2012 (ref: RB20212/0281) for two dwellings was refused as it was deemed to be contrary to UDP policy HG4.4 'Backland and Tandem Development' and Housing Guidance 2 'Back land and Tandem Development' and the development should be undertaken in conjunction with the adjoining gardens off Goose Lane and the site to the rear off Hall Croft / Lindum Drive so as to achieve a comprehensive scheme with a unified means of access. The decision was appealed and the Planning Inspector dismissed the appeal.

In respect of the above, it is of note that since the 2012 permission there have been significant changes in both local planning policy and guidance and in the national planning policy. Firstly, the NPPF has been adopted as new national planning policy and the UDP and SPG referred to above have both been superseded by the Council's adoption of the Local Plan (Core Strategy and Sites and Policy Document). Therefore, an application is determined on the basis of the most up-to-date policy and guidance at the time the application is to be determined. In respect of the principle of the development this is assessed in the report against the most relevant policy CS12 which subject to meeting the three criteria allows for the development of rear gardens, and in this instance it is considered that the scheme satisfies the requirements of this policy.

It is also noted that reference has been made to the fact that the development to the west was laid out to ensure that there could be an access to this site from Hall Croft, and that it was referred to by the Inspector in the appeal against the 2012 permission as the preferred option, rather than coming off Goose Lane. Indeed, the original owner of the adjoining land retained a small strip of land on the boundary of that site with the current application site and has indicated that he is willing to provide access over it to enable development off Hall Croft. However, the applicant does not have control over the land between the end of the adopted road off Hall Croft and this strip of land, and an e-mail has been received via the applicant from Redrow Homes, the developer of the housing on Hall Croft, confirming that they still

own the land between the end of the adopted highway in Hall Croft and this land - which primarily forms the private drive to 10-16 (even) Hall Croft - and they are not willing to sell this land. Therefore there is currently no possibility of gaining an access from Hall Croft.

Notwithstanding the above, even if the land were to be sold to provide an access it would require the removal of some, if not all, of the six protected trees along the rear of nos. 46 and 48, which would not be supported by the Council's Tree Service.

It is therefore considered that the proposed access off Goose Lane, which is existing, is acceptable in this instance for the reasons set out above and in other sections of the report.

An objector has raised concerns about the impact on ecology in the area, though there is no evidence of any protected species in this location, and the planting of the additional trees on site would offset any loss of existing vegetation.

Finally, an objection has been raised in respect of the development being a direct contravention of the objector's rights under Article 8 of the Human Rights Act which states that a person has the substantive right to respect for their private and family life. The objector considers that the design and height of the proposed houses will have a dominating impact on him and his right to the quiet private enjoyment of his property.

A study of appeals and court cases illustrates that the Human Rights argument is most likely to impinge upon cases involving enforcement action and gypsy site proposals. However the decisions of the House of Lords in *Alconbury* 2003 and *Begum* 2003 established clearly in the UK context that the protection of human rights in planning and administrative decisions generally did not lie high on the scale of rights requiring the greatest protection and intervention by the courts. The courts will not conduct their own merits-based consideration of the application of Convention rights and in general, will confine themselves to traditional "judicial review" type questions. In *Lough v First Secretary of State* 2004 the Court of Appeal made it clear that it is unnecessary for a planning decision maker to articulate in explicit terms the carrying out of a proportionality balancing exercise as long as it is clear that the decision maker adopted the correct approach.

In this instance and for the reasons set out in the amenity section of the report it is considered that the proposal would not give rise to significant overlooking or a loss of privacy due to the distance between the proposed dwellings and the neighbouring properties being in compliance with the relevant policies and guidance. As such it is not considered that the scheme would impinge on the Human Rights of the neighbouring residents.

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, would not result in highway safety issues, impact on drainage or result in the loss of protected trees. Therefore, the application would comply with relevant national and local planning policies and is subsequently recommended for approval subject to conditions.

Conditions

General

01

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

Reason

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

02

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

Location Plan, received 24 August 2020
 GL17-03, received 30 September 2020
 GL17-04, received 30 September 2020
 GL17-05, received 30 September 2020
 GL17-07, received 30 September 2020
 GL17-02 rev D, received 8 December 2020

Reason

To define the permission and for the avoidance of doubt.

Materials

03

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

Reason

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

04

No dwelling shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment as approved shall be completed before the first dwelling is occupied and shall thereafter be retained and maintained.

Reason

In the interests of the visual amenity of the area.

Highways

05

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and 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.

06

Prior to the occupation of each dwelling, details of one vehicle charging point per dwelling shall be submitted to and approved by the local planning authority. The dwelling shall not be occupied until the charging point has been provided and shall thereafter be retained.

Reason

In the interests of sustainable development and air quality.

07

The vehicular access to the adjoining land at the rear of 52 and 54 Goose Lane, as shown on the approved layout plan GL17-02 rev D, shall be provided and thereafter retained/maintained and shall not be incorporated into the garden areas of the proposed dwellings.

Reason

To allow for access through to the adjoining land and the comprehensive development of this backland area, in accordance with Local Plan Policy.

Trees

08

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

09

No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2 metre high barrier fence in accordance with BS 5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations This shall be positioned in accordance within the submitted Arboricultural Survey Report and Method Statement prepared by Gloaming Tree Surgery & Arboricultural Consultancy (August 2020). The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

Reason

To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity.

Drainage

10

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

Reason

To ensure the development can be properly drained.

Land Contamination

11

In the event that during development works unexpected significant contamination is encountered at any stage, 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.

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

With regard to condition 08, it is recommended that each property is provided with a tree in their front gardens and Plot 1 is also provided with two trees in the rear garden. All trees should be of Heavy standard 12-14 BS 3936-1 1992 and the following species are considered acceptable:

Front Garden possible tree species

- Acer campestre Elsrijk
- Amelanchier arborea Robin Hill
- Cotoneaster Cornubia
- Crataegus x grignonensis
- Crataegus x lavalleei
- Crataegus x prunifolia
- Liquidambar styraciflua Manon Variegata
- Magnolia Kobus

Back Garden possible tree species

- Betula albosinensis Fascination
- Betula ermanii
- Ginkgo biloba mayfield
- Gleditsia triacanthos Sunburst
- Liquidamber styraciflua Lane Roberts

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.