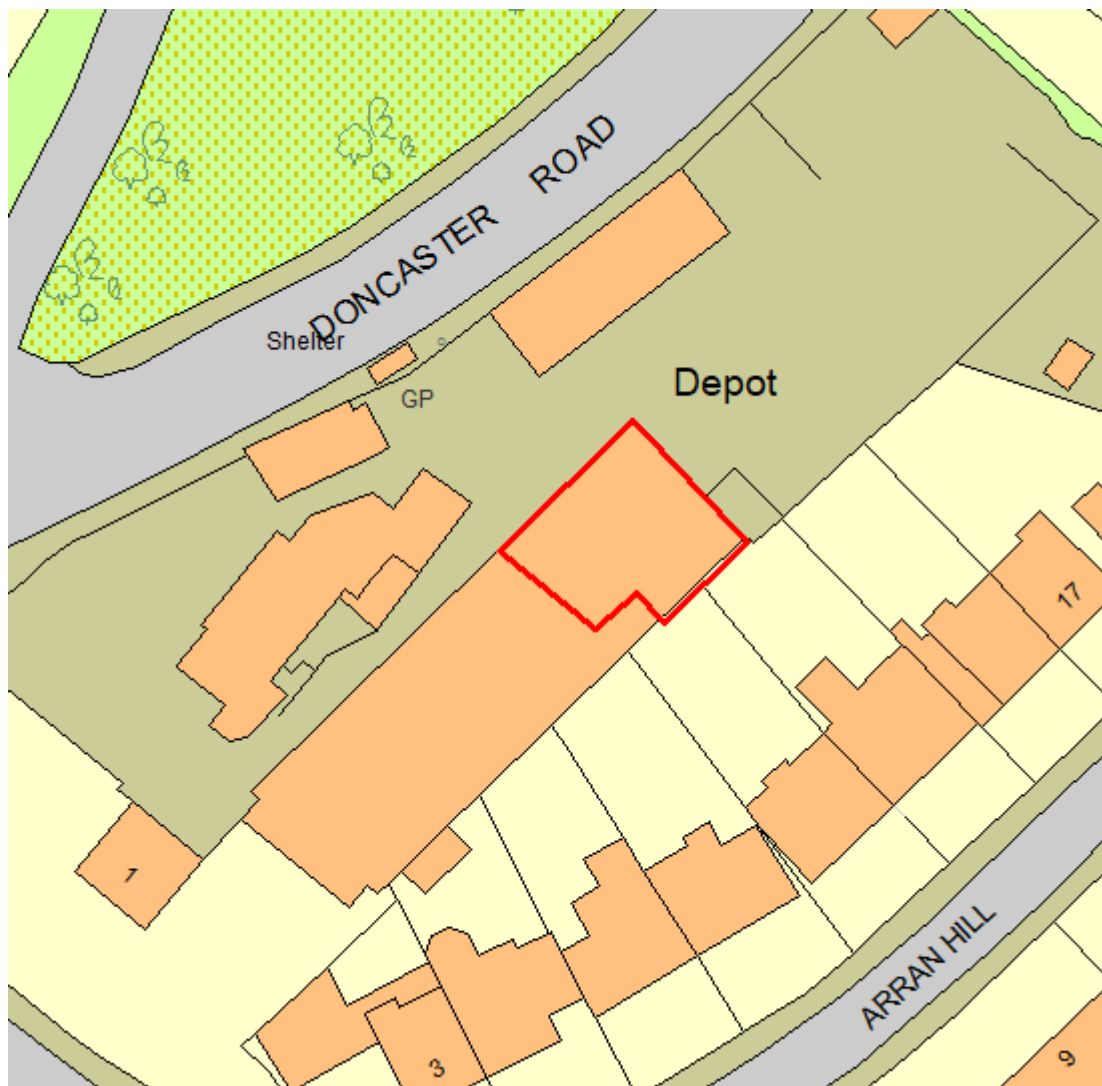


**REPORT TO THE PLANNING BOARD  
TO BE HELD ON THE 8<sup>TH</sup> FEBRUARY 2024**

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

<b>Application Number</b>	<b>RB2023/0827</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/0827">https://rotherham.planportal.co.uk/?id=RB2023/0827</a>
<b>Proposal and Location</b>	Change of use to use to retail unit (Class E) at Deer Park Farm, Doncaster Road, Thrybergh
<b>Recommendation</b>	<b>Grant Conditionally</b>

This application is being presented to Planning Board due to a request from a local Ward Member.



**Site Description & Location**

The application site relates to a commercial complex of buildings located off Doncaster Road, Thrybergh known as Deer Park Farm. It comprises a former farmhouse which has been converted into a café and separate retail unit

(known as Building C), a bar - Deer Park Tap (known as Building B), along with a large warehouse style building (known as Building A), as well as the sale of conservatories in the north eastern corner of the site.

The site forms part of the warehouse style building (known as Building A) which has been split into 3 separate retail units, none of which have planning permission:

1. 'Farm Shop/Deli' (at the northern end) – subject to current application RB2023/0827
2. 'Antiques Furniture Sales' (in central part, including mezzanine floor), – subject to current application RB2023/0829, also being considered on this agenda.
3. 'Country Stores Garden Equipment' (located at the southern end), – subject to current application RB2023/0830, also being considered on this agenda.

The surrounding area is predominately residential with residential properties on Arran Hill bordering the site to the south, east and north. Across Doncaster Road is the former Foster's garden centre and a range of Grade II Listed former agricultural buildings that are all currently vacant.

## **Background**

The site has a long planning history and was formally used for car hire and car van sales. The most relevant and recent planning history that relates to the current uses on the site are listed below:

RB2009/1345: Retrospective application for change of use of premises from car hire to manufacture of timber furniture & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture - REFUSED 14/01/10

RB2010/0580: Retrospective application for change of use of premises from car hire to manufacture of timber furniture, wrought iron work & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture and external alterations to buildings including erection of front boundary wall and railings  
fencing, wrought iron work & timber household furniture and external alterations to buildings - REFUSED 01/07/10 - DISMISSED 23/12/10

RB2010/0760: Display of 7 non-illuminated signs consisting of 3 fascia signs, 1 free standing post sign & 3 flag posts & flags  
- REFUSED 26/07/10

Appeal: - ALLOWED (PART ONLY) 23/12/10

RB2011/1601: Change of use to use Building A for storage and distribution (B8) and sales area (A1), Building B for 3 no. retail sales units (A1), Building C for retail sale of furniture (A1) and café (A3) to ground floor, a proposed external display area for conservatories and sheds, provision of new boundary wall and associated car parking - GRANTED CONDITIONALLY 17/01/12

RB2016/1048: Application to vary condition 03 (opening times) imposed by planning application RB2011/1601 - GRANTED CONDITIONALLY 09/01/17

RB2021/1455: Change of use to form bar area (Use Class C4) and retail Unit (Use Class A1) including extension of existing car park - REFUSED 16/12/21

For the following reasons:

01

The Council considers that the proposed public house and associated outside seating area (use class Sui Generis) would lead to unacceptable levels of noise nuisance and general disturbance to local residents, particularly in the evening, in this residential location, and as such the proposal is considered to be contrary to adopted Local Plan Policies SP11 'Development in Residential Areas' and SP52 'Pollution Control,' and paragraph 130(f) of the National Planning Policy Framework.

02

The submitted Sequential Test is considered to be insufficiently detailed to allow the Local Planning Authority to make an adequate assessment of the application in respect of the proposed change of use of Building A. In addition, the proposed use of Building A is not considered to be ancillary or complementary to the residential nature and function of the area and is larger in size than is required to meet the needs of local residents. As such, it is considered to be contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF.

Enforcement action was authorised at that time for, amongst other things, the cessation of the use of Building A – subject to the current application, for retail purposes (Class E), with a compliance period of 3 months, though no enforcement notice has at this stage been served.

RB2023/0562: Extended car park provision - GRANTED CONDITIONALLY 15/06/23

RB2023/0829: Change of use from B8 storage building with ancillary retail sales to deli shop (Use Class E) (referred to as "Antiques Furniture Sales" - Undetermined, and also on this agenda.

RB2023/0830: Change of use to retail unit with a portion of warehousing and store use (Use Class E) (referred to as 'Country Stores Garden Equipment') – Undetermined, and also on this agenda.

## **Proposal**

The application is for a retrospective change of use of the northern part of the former warehouse building known as Building A for a Farm shop/Deli (Use

Class E) with a total retail floorspace of approximately 109 square metres. The shop is currently in operation and therefore this aspect of the application is retrospective. The opening hours would be 10:00 – 17:00 Monday to Saturday and closed on Sundays.

This building as a whole was previously approved to be in a Storage and Distribution (use Class B8) under planning permission (reference RB2011/1601).

The retail shop at the former farmhouse and the shed and conservatory display area and public house do not form part of this change of use application as their authorised uses would continue unaffected by these proposals.

The applicant has submitted a Sequential Assessment to accompany the application to support the change of use to retail at the site of the former storage and distribution building.

No external alterations are proposed as part of this change of use application. An external seating area that had been formed adjacent to the entrance has now been removed and is not being considered as part of this application.

### **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 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):

CS12 'Managing change in Rotherham's retail and service'  
SP11 'Development in Residential Areas'  
SP32 'Green Infrastructure and Landscape'  
SP52 'Pollution Control'

### **Other Material Considerations**

Adopted Supplementary Planning Document 7 'Town Centre Uses and Developments'

The NPPF (as revised) 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. 4 separate representations have been received from neighbouring residents, 3 objecting to the application and 1 in support.

The issues raised by those objecting are summarised as follows:

- Concerns about opening hours being from 08:00am and would prefer if the shop opened later.
- Noise and disturbance from deliveries.
- Noise nuisance from emptying and filling bins.
- Noise from the external seating area (though this element has now been removed from the proposals).

The letter in support notes that the deli is a great shop for local people.

## **Consultations**

RMBC – Transportation Infrastructure Service: No objections.

RMBC – Environmental Health: No objections in terms of impact on neighbouring amenity.

## **Appraisal**

The main issues in the determination of this application are considered to be:

- Principle of introducing such a use in this location.
- Impact on the amenity of neighbouring residents
- Highway safety

### Principle of the development:

The proposed retrospective retail use falls within Use Class E.

The site is within an area allocated for Residential use in the Local Plan and is located close to residential properties to the south, east, and north. Accordingly, the application shall be considered against the requirements set out in Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' and SP11 'Development in Residential Areas'.

Policy SP11 states: *"Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies."*

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

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

Explanatory text at paragraph 4.44 states: “Certain non-residential uses will be allowed in residential areas where they are ancillary and complementary to the main residential use. Such uses could include proposals for convenience shops serving the local area only, social and community facilities, public houses, amenity and local recreational open space. Residential areas are generally considered to be suitable locations for Use Class B1 employment uses, development proposals will be resisted if the scale of the building and the intensity of use, particularly traffic movements, are detrimental to the appearance and character of the residential area.”

In terms of the proposed retail unit and criteria (a) and (b) of Policy SP11, the deli occupies the front section of the building. Though the deli forms part of the larger building it could easily be portioned off with the remainder of the building being returned to a storage and distribution use. The deli is considered not be of an excessive size and is complementary to the residential nature of the area serving a local need in terms of food sales. As such, it is considered to comply with criteria (a) and (b) of Policy SP11 and would not undermine Local Plan Policies CS12 ‘Managing Change in Rotherham’s Retail and Service Centres, being a low key food retail outlet appropriate to a residential area.

The retail use is a “Main town centre use” as defined in the NPPF, and with regards to retail impact Policy CS12 ‘Managing Change in Rotherham’s Retail and Service Centres states: “To maintain and enhance the vitality and viability of the borough's retail and service centres new retail, leisure, service facilities and other main town centre uses will be directed to the most appropriate centre in line with the hierarchy set out below having regard to the type and scale of development proposed.”

Policy CS12 goes on to state: “As set out in Policy CS1 Delivering Rotherham's Spatial Strategy, Rotherham town centre will be the focus for the majority of new comparison and convenience floorspace proposed to be accommodated in the borough. However subject to satisfying other requirements of this policy, convenience goods floorspace proposals will be supported at Wickersley / Bramley (up to 1,500 sqm gross).

Neighbourhood shops and shopping parades that provide for local retail and service needs will be safeguarded and improved to help reduce the need to

travel and to maintain accessibility and inclusive communities. New development of an appropriate scale for local shops and community facilities will be supported in areas of housing growth.

### *The Sequential Approach*

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

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

Proposals for retail, leisure or office uses of 500 sq m gross or above, on the edge of or outside of designated centres, must be accompanied by an assessment of

- c. the impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area of the proposal; and
- d. the impact of the proposal on the vitality and viability of centres, including local consumer choice and trade.”

The Council’s Supplementary Planning Document 7 – ‘Town Centre Uses and Developments’ states at paragraph 48 that: “Flexibility could include agreement to only consider sequentially preferable sites within a reasonable size range to accommodate the proposed development (such as +/- 10%). In such circumstances the Council may accept the automatic discounting of sites outside of any agreed range.”

The NPPF states at paragraphs 91 and 92 that: “91 - Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

92 - When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”

Paragraphs 94 and 95 of the NPPF add that: “94 - When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).”

In this instance an Impact Assessment is not required as the shop unit does not meet this floorspace threshold.

“95 - Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.”

In terms of the use of that part of Building A subject to this planning application, the total additional retail floor space formed by the conversion of part of the B8 storage facility into retail use would be approximately 109 sq metres.

In view of the above, the applicant has provided a Sequential Test to justify the location of the retail unit at the site by way of conversion of the storage and distribution unit. It is noted that the the Sequential Test identifies suitable alternative sites in Rotherham Town Centre, however, there were no suitable available units within 300 metres of the boundary of Parkgate District Centre, Dalton Local Centre, Wickersley District Centre, and Bramley Local Centre. The findings of the Sequential Test are accepted.

The Sequential Test acknowledges that alternative sequentially preferable sites exist and argues that; “the Local Planning Authority will need to apply a planning balance which considers the planning and community benefits of the retail uses being located at Deer Park Farm in Thrybergh alongside both national and local planning policy requirements.”

In this instance, it is considered that the deli use represents local convenience retail and in effect represents an appropriate scale for a local shop. The immediately surrounding area does not have any local shops or a local shopping centre, with the nearest local shops being located in Dalton at a significant distance from this site.

Whilst the site clearly fails the sequential test it is considered that, on balance, the deli is of a scale and use that is acceptable in this instance. However, it is considered reasonable to append a condition that requires that the shop unit is restricted primarily to convenience goods retail so that it continues in providing an identified local need to local residents.

Therefore, it is considered that on balance the proposal complies with Policies CS12 ‘Managing Change in Rotherham’s Retail and Service Centres and Policy SP11 ‘Development in Residential Areas.’



#### Impact on neighbouring residents:

Notwithstanding the above, it is considered that in respect of criteria c and d of Policy SP11 the proposed use will have to be assessed against the requirements of other Local Plan policy SP52 'Pollution Control'.

Policy SP52 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"*. It further states that when determining an application consideration will be given to, amongst other things, *"...the potential noise likely to be generated by the proposed development..."*

With regards to amenity, the proposed retail use is likely to be relatively low key with day-time opening hours. Whilst it is noted that neighbouring residents raised concerns about the premises opening from 08:00 the applicant has stated that the premises would open from 10:00 – 17:00 Mondays to Saturdays.

It is considered that the premises opening within these times is unlikely to have any detrimental impact on the amenity of neighbouring residents. Furthermore, the delivery times as well as the opening hours could be conditioned as part of any planning permission granted in this respect.

As such, the development would not result in a use that would be in direct conflict with criterion adopted Local Plan Policy SP11 'Development in Residential Areas', but also the requirements set out in Local Plan Policy SP52 'Pollution Control'.

#### Highway Impact

With regards to highway impact the Council's Highway Engineer has made the following comments:

*"With regard to this application, the application if approved will result in the change of use of 109sqm to retail. There is a significant number of parking spaces available at the site, though it is noted that the site offers a mixed-use facility including, a florist, cafe and bar which have / are being considered separately to this application. The site is also well served by public transport in the form of nearby bus stops."*

In conclusion, the Council's Highway Engineer raised no concerns about on street parking from the activities at this site and raised no objections to the proposal in a highway context.

#### Other issues raised by objectors

Concerns were raised about an outdoor seating area in connection with the deli business. This element of the proposals is unauthorised and has been removed. This element is not under consideration as part of this application.

## **Conclusion**

Having regard to the above it is considered that whilst there may be sequentially preferable sites to that currently proposed, it is considered that, on balance, the deli is of a scale and use that is acceptable in this instance. However, it is considered reasonable to append a condition that requires that the shop unit is restricted to food retail so that it continues in providing an identified local need to local residents.

Therefore, it is considered that on balance the proposal complies with Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and Policy SP11 'Development in Residential Areas.'

## **Conditions**

01

The permission hereby granted shall relate to the area shown outlined in red on the approved location plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans.

Reason

To define the permission and for the avoidance of doubt.

02

The retail use hereby permitted shall only be open between the hours of 10:00 – 17:00 Monday to Saturday and shall be closed on Sundays and Bank Holidays. No deliveries shall be made outside of hours 08:00 – 18:00 Mondays to Saturdays with no deliveries on Sundays or Bank Holidays.

Reason

In the interest of neighbouring amenity in accordance with Policy SP52 'Pollution Control.'

03

No less than 60% of the total retail sales area shall be devoted to the sale of convenience goods, unless otherwise approved in writing by the Local Planning Authority.

Reason

To ensure that the shop hereby approved is complementary to the residential nature and function of this area in accordance with Policy SP11 'Development in Residential Areas.'

## **Informative**

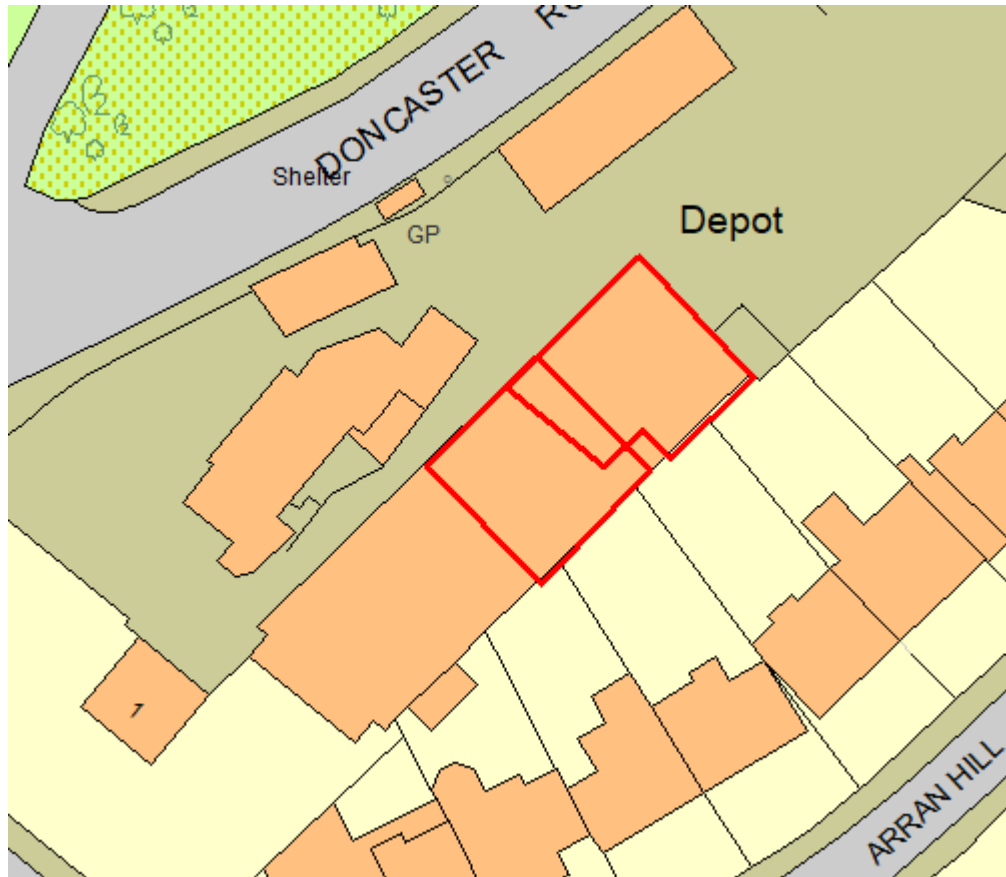
In respect of Condition 3, convenience goods are as defined in the Sites and Policies Local Plan as being: "A consumer item that is widely-available, purchased frequently and with minimal effort. Examples of convenience goods include newspaper and sweets."

## POSITIVE AND PROACTIVE STATEMENT

The applicant entered into any pre application discussions with the Local Planning Authority, and the proposals were in accordance with the principles of the National Planning Policy Framework and did not require any alterations or modification.

<b>Application Number</b>	<b>RB2023/0829</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/0829">https://rotherham.planportal.co.uk/?id=RB2023/0829</a>
<b>Proposal and Location</b>	Change of use to use to retail/antiques emporium unit at Deer Park Farm, Doncaster Road, Thrybergh
<b>Recommendation</b>	Refuse Planning Permission

This application is being presented to Planning Board due to a request from a local Ward Member.



### Site Description & Location

The application site relates to a commercial complex of buildings located off Doncaster Road, Thrybergh known as Deer Park Farm. It comprises a former farmhouse which has been converted into a café and separate retail unit (known as Building C), a bar - Deer Park Tap (known as Building B), along

with a large warehouse style building (known as Building A), as well as the sale of conservatories in the north eastern corner of the site.

The site forms part of the warehouse style building (known as Building A) which has been split into 3 separate retail units, none of which have planning permission:

4. 'Farm Shop/Deli' (at the northern end) – subject to current application RB2023/0827, also being considered on this agenda.
5. 'Antiques Furniture Sales' (in central part, including mezzanine floor), – subject to current application RB2023/0829
6. 'Country Stores Garden Equipment' (located at the southern end), subject to current application RB2023/0830, also being considered on this agenda.

The surrounding area is predominately residential with residential properties on Arran Hill bordering the site to the south, east and north. Across Doncaster Road is the former Foster's garden centre and a range of Grade II Listed former agricultural buildings that are all currently vacant.

The site is within a Residential area as identified in the adopted Local Plan.

## **Background**

The site has a long planning history and was formally used for car hire and car van sales. The most relevant and recent planning history that relates to the current uses on the site are listed below:

RB2009/1345: Retrospective application for change of use of premises from car hire to manufacture of timber furniture & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture - REFUSED 14/01/10

RB2010/0580: Retrospective application for change of use of premises from car hire to manufacture of timber furniture, wrought iron work & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture and external alterations to buildings including erection of front boundary wall and railings  
fencing, wrought iron work & timber household furniture and external alterations to buildings - REFUSED 01/07/10 - DISMISSED 23/12/10

RB2010/0760: Display of 7 non-illuminated signs consisting of 3 fascia signs, 1 free standing post sign & 3 flag posts & flags  
- REFUSED 26/07/10

Appeal: - ALLOWED (PART ONLY) 23/12/10

RB2011/1601: Change of use to use Building A for storage and distribution (B8) and sales area (A1), Building B for 3 no. retail sales units (A1), Building C for retail sale of furniture (A1) and café (A3) to ground floor, a proposed external display area for conservatories and sheds, provision of new boundary wall and associated car parking - GRANTED CONDITIONALLY 17/01/12

RB2016/1048: Application to vary condition 03 (opening times) imposed by planning application RB2011/1601 - GRANTED CONDITIONALLY 09/01/17

RB2021/1455: Change of use to form bar area (Use Class C4) and retail Unit (Use Class A1) including extension of existing car park - REFUSED 16/12/21

For the following reasons:

01

The Council considers that the proposed public house and associated outside seating area (use class Sui Generis) would lead to unacceptable levels of noise nuisance and general disturbance to local residents, particularly in the evening, in this residential location, and as such the proposal is considered to be contrary to adopted Local Plan Policies SP11 'Development in Residential Areas' and SP52 'Pollution Control,' and paragraph 130(f) of the National Planning Policy Framework.

02

The submitted Sequential Test is considered to be insufficiently detailed to allow the Local Planning Authority to make an adequate assessment of the application in respect of the proposed change of use of Building A. In addition, the proposed use of Building A is not considered to be ancillary or complementary to the residential nature and function of the area and is larger in size than is required to meet the needs of local residents. As such, it is considered to be contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF.

Enforcement action was authorised at that time for, amongst other things, the cessation of the use of Building A – subject to the current application, for retail purposes (Class E), with a compliance period of 3 months, though no enforcement notice has at this stage been served.

RB2023/0562: Extended car park provision - GRANTED CONDITIONALLY 15/06/23

RB2023/0827: Change of use from B8 storage building with ancillary retail sales to deli shop (Use Class E) – Undetermined, also on this agenda.

RB2023/0830: Change of use to retail unit with a portion of warehousing and store use

- Undetermined, also on this agenda.

## **Proposal**

The application is for a retrospective change of use of part of the former warehouse building known as Building A for an antiques and retail emporium (Use Class E) with a total floorspace of approximately 288 square metres,

including a mezzanine floor that has been formed inside the building. The shop is currently in operation and therefore this aspect of the application is retrospective. The opening hours would be 10:00 – 17:00 Monday to Saturday and is closed on Sunday's.

This building as a whole was previously approved to be in a Storage and Distribution (use Class B8) under planning permission (reference RB2011/1601).

The retail shop at the former farm house and the shed and conservatory display area and public house do not form part of this change of use application as their authorised uses would continue unaffected by these proposals.

The applicant has submitted a Sequential Assessment to accompany the application in to support the change of use to retail at the site of the storage and distribution building.

No external alterations are proposed as part of this change of use application.

### **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 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):

CS12 'Managing change in Rotherham's retail and service'  
SP11 'Development in Residential Areas'  
SP32 'Green Infrastructure and Landscape'  
SP52 'Pollution Control'

### **Other Material Considerations**

Adopted Supplementary Planning Document 7 'Town Centre Uses and Developments'

The NPPF (as revised) 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. 2 separate representations have been received from neighbouring residents objecting to the application.

The issues raised by those objecting are summarised as follows:

- Concerns about opening hours being from 08:00am and would prefer if the shop opened later.
- Noise and disturbance from deliveries.

## **Consultations**

RMBC – Transportation Infrastructure Service: No objections.

RMBC – Environmental Health: No objections in terms of impact on neighbouring amenity.

## **Appraisal**

The main issues in the determination of this application are considered to be:

- Principle of introducing such uses in this location.
- Impact on the amenity of neighbouring residents
- Highway safety

### Principle of the development:

The proposed retrospective retail use falls within Use Class E.

The site is within an area allocated for Residential use in the Local Plan and is located close to residential properties to the south, east, and north. Accordingly, the application shall be considered against the requirements set out in Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' and SP11 'Development in Residential Areas'.

*Policy SP11 states: "Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies.*

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

- e. are ancillary and complementary to the residential nature and function of the area; and*

- f. are no larger than is required to meet the needs of local residents; and*
- g. will not have an unacceptable impact on the residential amenity of the area; and*
- h. demonstrate how they will be of benefit to the health and well-being of the local population.”*

Explanatory text at paragraph 4.44 states: “Certain non-residential uses will be allowed in residential areas where they are ancillary and complementary to the main residential use. Such uses could include proposals for convenience shops serving the local area only, social and community facilities, public houses, amenity and local recreational open space. Residential areas are generally considered to be suitable locations for Use Class B1 employment uses, development proposals will be resisted if the scale of the building and the intensity of use, particularly traffic movements, are detrimental to the appearance and character of the residential area.”

In terms of the proposed retail unit and criteria (a) and (b) of Policy SP11, due to its excessive size the proposed use of part of Building A is not considered to be ancillary or complementary to the residential nature and function of the area and, when combined with the other retail units within Building A as a whole, is larger in size than is required to meet the needs of local residents. As such, it is considered to be contrary to adopted Local Plan Policies CS12 ‘Managing Change in Rotherham’s Retail and Service Centres and SP11 ‘Development in Residential Areas’.

The retail uses is a “Main town centre use” as defined in the NPPF, and with regards to retail impact Policy CS12 ‘Managing Change in Rotherham’s Retail and Service Centres states: “To maintain and enhance the vitality and viability of the borough’s retail and service centres new retail, leisure, service facilities and other main town centre uses will be directed to the most appropriate centre in line with the hierarchy set out below having regard to the type and scale of development proposed.”

Policy CS12 goes on to state “As set out in Policy CS1 Delivering Rotherham’s Spatial Strategy, Rotherham town centre will be the focus for the majority of new comparison and convenience floorspace proposed to be accommodated in the borough. However subject to satisfying other requirements of this policy, convenience goods floorspace proposals will be supported at Wickersley / Bramley (up to 1,500 sqm gross).

Neighbourhood shops and shopping parades that provide for local retail and service needs will be safeguarded and improved to help reduce the need to travel and to maintain accessibility and inclusive communities. New development of an appropriate scale for local shops and community facilities will be supported in areas of housing growth.

### The Sequential Approach

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



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

Proposals for retail, leisure or office uses of 500 sq m gross or above, on the edge of or outside of designated centres, must be accompanied by an assessment of

- c. the impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area of the proposal; and
- d. the impact of the proposal on the vitality and viability of centres, including local consumer choice and trade.”

The Council's Supplementary Planning Document 7 – 'Town Centre Uses and Developments' states at paragraph 48 that: "Flexibility could include agreement to only consider sequentially preferable sites within a reasonable size range to accommodate the proposed development (such as +/- 10%). In such circumstances the Council may accept the automatic discounting of sites outside of any agreed range."

The NPPF states at paragraphs 91 and 92 that: "91 - Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

92- When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored."

Paragraphs 94 and 95 of the NPPF add that: "94 - When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and

private investment in a centre or centres in the catchment area of the proposal;

and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

95 - Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.”

In terms of the use of Building A, the total additional floor space formed by the conversion of part of the B8 storage facility into retail use would be approximately 288 sq metres (including a mezzanine floor area that has been created inside the building).

In view of the above, the applicant has provided a Sequential Test to justify the location of the retail unit at the site by way of conversion of the storage and distribution unit. The applicant argues that the Antiques Centre needs to be co-located with the other businesses at the site. However, this is not accepted, as an antiques shop could easily be located in a sequentially preferable town centre location within the Borough.

In addition, the proposed use does not represent local convenience retail. If the retail element at the adjoining ‘deli’ is accepted, then this would suffice for local retail provision in this locality.

When assessing alternative sites the size of these alternative uses should fall within a 10% buffer so should either be up to 10% larger or 10% smaller than the proposed use. Having assessed the Sequential Test it has been found to be inadequate in terms of assessing all available alternative and suitable sites in local Town Centres, namely Rotherham Town Centre, and it is considered that the proposal does not comply with Policies CS12 ‘Managing Change in Rotherham’s Retail and Service Centres and Policy SP11 ‘Development in Residential Areas.’

#### Impact on neighbouring residents:

Notwithstanding the above, it is considered that in respect of criteria c and d of Policy SP11 the proposed use will have to be assessed against the requirements of other Local Plan policy SP52 ‘Pollution Control’.

Policy SP52 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”*. It further states that when determining an application consideration will be given to, amongst other things, *“...the potential noise likely to be generated by the proposed development...”*

With regards to amenity, the proposed retail use is likely to be relatively low key with day-time opening hours. Whilst it is noted that neighbouring residents raised concerns about the premises opening from 08:00 the applicant has stated that the premises would open from 10:00 – 17:00 Mondays to Saturdays.

It is considered that the premises opening within these times is unlikely to have any detrimental impact on the amenity of neighbouring residents. Furthermore, the delivery times as well as the opening hours could be conditioned as part of any planning permission granted in this respect.

As such, the development would not result in a use that would be in direct conflict with criterion adopted Local Plan Policy SP11 'Development in Residential Areas', but also the requirements set out in Local Plan Policy SP52 'Pollution Control'.

#### Highway impact

With regards to highway impact the Council's Highway Engineer has made the following comments:

"With regard to this application, the application if approved will result in the change of use of 288sqm to retail / antiques emporium. There is a significant number of parking spaces available at the site, though it is noted that the site offers a mixed-use facility including, deli shop and bar which have / are being considered separately to this application. The site is also well served by public transport in the form of nearby bus stops."

In conclusion, the Council's Highway Engineer raised no concerns about on street parking from the activities at this site and raised no objections to the proposal in a highway context.

#### **Enforcement**

The change of use of the storage and distribution unit into retail use has occurred within the last 10 years and in view of the recommendation to refuse planning permission, enforcement action should be taken to require the cessation of this use at the site. Such enforcement action has already been authorised following the refusal of the previous related planning application requiring the closure of the retail unit, with a compliance period of 3 months, though no notice has been served at this stage.

#### **Conclusion**

Having regard to the above it is considered that the applicant has failed to justify the requirement for this retail use to be located in this out of centre, residential location. The submitted Sequential Test identifies suitable sequentially preferable alternative sites, which is confirmed in para 5. 2 of the submitted Sequential Test. As such, it is considered to be contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance

contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF. As such, it is considered that the application should be refused on this basis.

### **Reason for Refusal**

01

The submitted Sequential Test identifies suitable sequentially preferable alternative sites. As such, it is considered that the development is contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF.

### **Informative:**

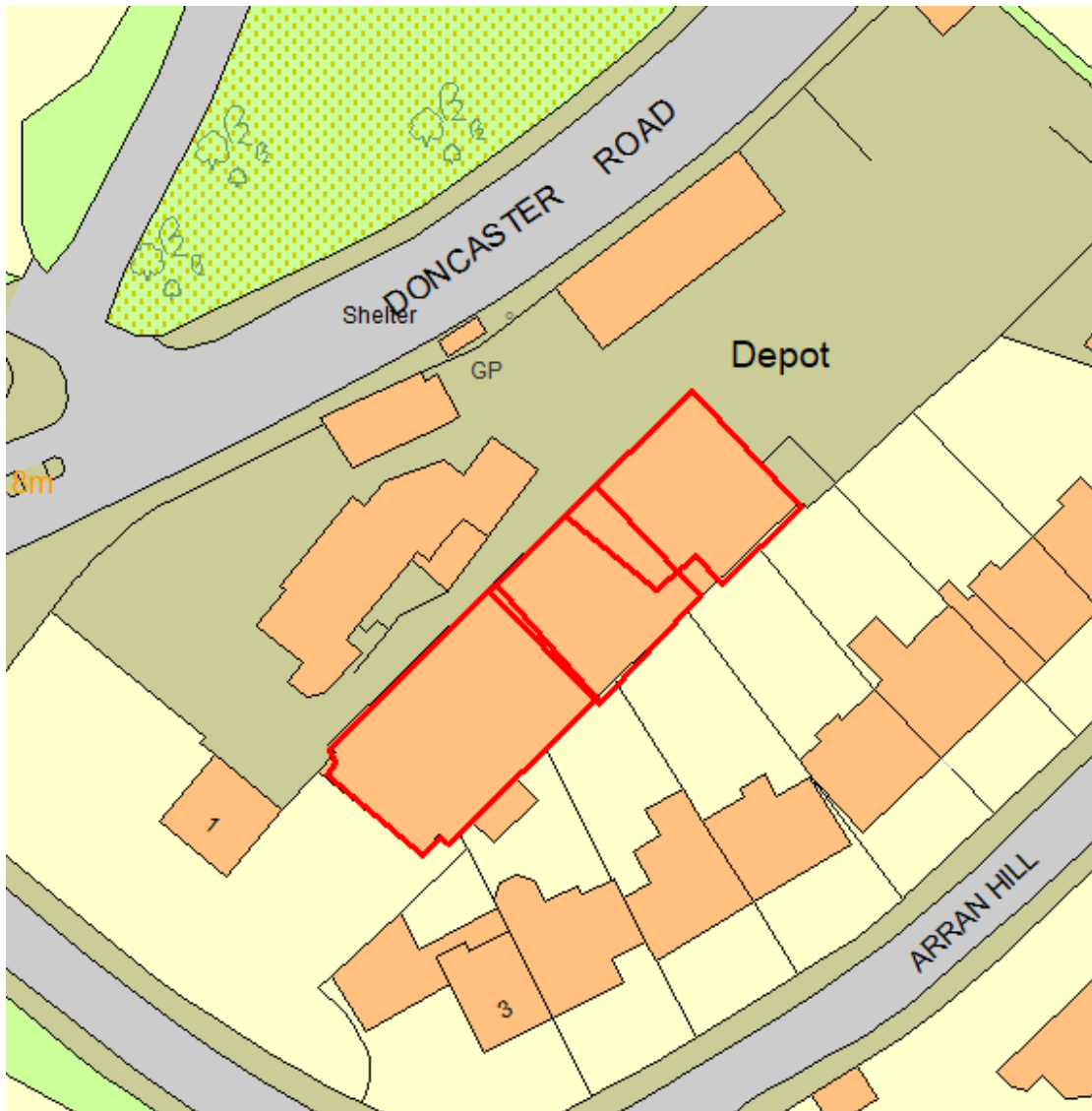
Enforcement action has been authorised to secure the cessation of the use of part of Building A for retail purposes (Class E), with a compliance period of 3 months.

### **POSITIVE AND PROACTIVE STATEMENT**

The applicant did enter into pre application discussions with the Local Planning Authority. These discussions identified that the scheme was unacceptable. It is considered not to be possible to support a scheme of this nature nor would any amendments make it acceptable. It was not considered to be in accordance with the principles of the National Planning Policy Framework and resulted in this refusal.

<b>Application Number</b>	<b>RB2023/0830</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/0830">https://rotherham.planportal.co.uk/?id=RB2023/0830</a>
<b>Proposal and Location</b>	Change of use to use to retail unit (Class E) at Deer Park Farm, Doncaster Road, Thrybergh
<b>Recommendation</b>	Refuse Planning Permission

This application is being presented to Planning Board due to a request from a local Ward Member.



### Site Description & Location

The application site relates to a commercial complex of buildings located off Doncaster Road, Thrybergh known as Deer Park Farm. It comprises a former farmhouse which has been converted into a café and separate retail unit (known as Building C), a bar - Deer Park Tap (known as Building B), along

with a large warehouse style building (known as Building A), as well as the sale of conservatories in the north eastern corner of the site.

The site forms part of the warehouse style building (known as Building A) which has been split into 3 separate retail units, none of which have planning permission:

7. 'Farm Shop/Deli' (at the northern end) – subject to current application RB2023/0827, also being considered on this agenda.
8. 'Antiques Furniture Sales' (in central part, including mezzanine floor), – subject to current application RB2023/0829, also being considered on this agenda.
9. 'Country Stores Garden Equipment' (located at the southern end), – subject to current application RB2023/0830

The surrounding area is predominately residential with residential properties on Arran Hill bordering the site to the south, east and north. Across Doncaster Road is the former Foster's garden centre and a range of Grade II Listed former agricultural buildings that are all currently vacant.

The site is within a Residential area as identified in the adopted Local Plan.

## **Background**

The site has a long planning history and was formally used for car hire and car van sales. The most relevant and recent planning history that relates to the current uses on the site are listed below:

RB2009/1345: Retrospective application for change of use of premises from car hire to manufacture of timber furniture & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture - REFUSED 14/01/10

RB2010/0580: Retrospective application for change of use of premises from car hire to manufacture of timber furniture, wrought iron work & fencing and sale of garden sheds, fencing, wrought iron work & timber household furniture and external alterations to buildings including erection of front boundary wall and railings  
fencing, wrought iron work & timber household furniture and external alterations to buildings - REFUSED 01/07/10 - DISMISSED 23/12/10

RB2010/0760: Display of 7 non-illuminated signs consisting of 3 fascia signs, 1 free standing post sign & 3 flag posts & flags  
- REFUSED 26/07/10

Appeal: - ALLOWED (PART ONLY) 23/12/10

RB2011/1601: Change of use to use Building A for storage and distribution (B8) and sales area (A1), Building B for 3 no. retail sales units (A1), Building C for retail sale of furniture (A1) and café (A3) to ground floor, a proposed external display area for conservatories and sheds, provision of new boundary wall and associated car parking - GRANTED CONDITIONALLY 17/01/12

RB2016/1048: Application to vary condition 03 (opening times) imposed by planning application RB2011/1601 - GRANTED CONDITIONALLY 09/01/17

RB2021/1455: Change of use to form bar area (Use Class C4) and retail Unit (Use Class A1) including extension of existing car park - REFUSED 16/12/21

For the following reasons:

01

The Council considers that the proposed public house and associated outside seating area (use class Sui Generis) would lead to unacceptable levels of noise nuisance and general disturbance to local residents, particularly in the evening, in this residential location, and as such the proposal is considered to be contrary to adopted Local Plan Policies SP11 'Development in Residential Areas' and SP52 'Pollution Control,' and paragraph 130(f) of the National Planning Policy Framework.

02

The submitted Sequential Test is considered to be insufficiently detailed to allow the Local Planning Authority to make an adequate assessment of the application in respect of the proposed change of use of Building A. In addition, the proposed use of Building A is not considered to be ancillary or complementary to the residential nature and function of the area and is larger in size than is required to meet the needs of local residents. As such, it is considered to be contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF.

Enforcement action was authorised at that time for, amongst other things, the cessation of the use of Building A – subject to the current application, for retail purposes (Class E), with a compliance period of 3 months, though no enforcement notice has at this stage been served.

RB2023/0562: Extended car park provision - GRANTED CONDITIONALLY 15/06/23

RB2023/0827: Change of use from B8 storage building with ancillary retail sales to deli shop (Use Class E) – Undetermined, also on this agenda.

RB2023/0829: Change of use to retail/antiques emporium (Use Class E) - Undetermined, also on this agenda.

## **Proposal**

The application is for a retrospective change of use of the southern part of the former warehouse building known as Building A into retail unit and storage in association with the retail use (Use Class E) with a total retail floorspace of approximately 229 square metres. The shop sells agricultural goods and has

an ancillary warehouse selling bulky goods. The shop is currently in operation and therefore this aspect of the application is retrospective. The opening hours would be 10:00 – 17:00 Monday to Saturday and is closed on Sunday's.

This building as a whole was previously approved to be in a Storage and Distribution (use Class B8) under planning permission (reference RB2011/1601).

The retail shop at the former farmhouse and the shed and conservatory display area and public house do not form part of this change of use application as their authorised uses would continue unaffected by these proposals.

The applicant has submitted a Sequential Assessment to accompany the application to support the change of use to retail at the site of the former storage and distribution building.

No external alterations are proposed as part of this change of use application.

### **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 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):

CS12 'Managing change in Rotherham's retail and service'  
SP11 'Development in Residential Areas'  
SP32 'Green Infrastructure and Landscape'  
SP52 'Pollution Control'

### **Other Material Considerations**

Adopted Supplementary Planning Document 7 'Town Centre Uses and Developments'

The NPPF (as revised) 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. 2 separate representations have been received from neighbouring residents objecting to the application.

The issues raised by those objecting are summarised as follows:

- Concerns about opening hours being from 08:00am and would prefer if the shop opened later.
- Noise and disturbance from deliveries.

## **Consultations**

RMBC – Transportation Infrastructure Service: No objections.

RMBC – Environmental Health: No objections in terms of impact on neighbouring amenity.

## **Appraisal**

The main issues in the determination of this application are considered to be:

- Principle of introducing such a use in this location.
- Impact on the amenity of neighbouring residents
- Highway safety

### Principle of the development:

The proposed retrospective retail use falls within Use Class E.

The site is within an area allocated for Residential use in the Local Plan and is located close to residential properties to the south, east, and north. Accordingly, the application shall be considered against the requirements set out in Policy CS12 'Managing Change in Rotherham's Retail and Service Centres' and SP11 'Development in Residential Areas'.

Policy SP11 states: *"Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies.*

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

- are ancillary and complementary to the residential nature and function of the area; and*
- are no larger than is required to meet the needs of local residents; and*
- will not have an unacceptable impact on the residential amenity of the area; and*

- 1. demonstrate how they will be of benefit to the health and well-being of the local population.”*

Explanatory text at paragraph 4.44 states: “Certain non-residential uses will be allowed in residential areas where they are ancillary and complementary to the main residential use. Such uses could include proposals for convenience shops serving the local area only, social and community facilities, public houses, amenity and local recreational open space. Residential areas are generally considered to be suitable locations for Use Class B1 employment uses, development proposals will be resisted if the scale of the building and the intensity of use, particularly traffic movements, are detrimental to the appearance and character of the residential area.”

In terms of the proposed retail unit and criteria (a) and (b) of Policy SP11, due to its proposed use retailing use of part of Building A is not considered to be ancillary or complementary to the residential nature and function of the area and, when combined with the other retail units within Building A as a whole, is larger in size than is required to meet the needs of local residents, and selling agricultural equipment is not considered to be meeting an identified local shopping need. As such, it is considered to be contrary to adopted Local Plan Policies CS12 ‘Managing Change in Rotherham’s Retail and Service Centres and SP11 ‘Development in Residential Areas’.

The retail uses is a “Main town centre use” as defined in the NPPF, and with regards to retail impact Policy CS12 ‘Managing Change in Rotherham’s Retail and Service Centres states: “To maintain and enhance the vitality and viability of the borough’s retail and service centres new retail, leisure, service facilities and other main town centre uses will be directed to the most appropriate centre in line with the hierarchy set out below having regard to the type and scale of development proposed.”

Policy CS12 goes on to state “As set out in Policy CS1 Delivering Rotherham’s Spatial Strategy, Rotherham town centre will be the focus for the majority of new comparison and convenience floorspace proposed to be accommodated in the borough. However subject to satisfying other requirements of this policy, convenience goods floorspace proposals will be supported at Wickersley / Bramley (up to 1,500 sqm gross).

Neighbourhood shops and shopping parades that provide for local retail and service needs will be safeguarded and improved to help reduce the need to travel and to maintain accessibility and inclusive communities. New development of an appropriate scale for local shops and community facilities will be supported in areas of housing growth.

### *The Sequential Approach*

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

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

Proposals for retail, leisure or office uses of 500 sq m gross or above, on the edge of or outside of designated centres, must be accompanied by an assessment of

- c. the impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area of the proposal; and
- d. the impact of the proposal on the vitality and viability of centres, including local consumer choice and trade.”

The Council's Supplementary Planning Document 7 – ‘Town Centre Uses and Developments’ states at paragraph 48 that: “Flexibility could include agreement to only consider sequentially preferable sites within a reasonable size range to accommodate the proposed development (such as +/- 10%). In such circumstances the Council may accept the automatic discounting of sites outside of any agreed range.”

The NPPF states at paragraphs 91 and 92 that: “91 - Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

92- When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.”

Paragraphs 94 and 95 of the NPPF add that: “94 - When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).”

In this instance an Impact Assessment is not required as the shop unit does not meet this floorspace threshold.

“95 - Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.”

In terms of the use of that part of Building A subject to this planning application, the total additional retail floor space formed by the conversion of part of the B8 storage facility into retail use would be approximately 229 sqm.

In view of the above, the applicant has provided a Sequential Test to justify the location of the retail unit at the site by way of conversion of the storage and distribution unit. The applicant argues that the agricultural sales and warehouse due to their bulky goods nature can be located outside of a designated town centre. However, the Sequential Test identifies sequentially preferable sites for the sale of bulky goods in sequentially preferable locations. As such, it is considered that the sequential test fails to demonstrate the requirement for this business to be located in this specific location.

When assessing alternative sites the size of these alternative uses should fall within a 10% buffer so should either be up to 10% larger or 10% smaller than the proposed use. The Sequential Test identifies suitable alternative sites in Rotherham Town Centre, however, there were no suitable available units within 300 metres of the boundary of Parkgate District Centre, Dalton Local Centre, Wickersley District Centre, and Bramley Local Centre.

The Sequential Test acknowledges that alternative sequentially preferable sites exist and argues that “the Local Planning Authority will need to apply a planning balance which considers the planning and community benefits of the retail uses being located at Deer Park Farm in Thrybergh alongside both national and local planning policy requirements.”

Having assessed the Sequential Test it has been found to be inadequate in terms of assessing all available alternative and suitable sites in local Town Centres, namely Rotherham Town Centre. In addition, the proposed use does not represent local convenience retail. If the retail element at the adjoining ‘deli’ is accepted, then this would suffice for local retail provision in this locality.

As such, it is considered that the site fails the Sequential Test as sequentially preferable sites were identified in the Rotherham Town Centre and the applicant has failed to provide adequate justification to require this retail unit to be located in this residential location.

Impact on neighbouring residents:

Notwithstanding the above, it is considered that in respect of criteria c and d of Policy SP11 the proposed use will have to be assessed against the requirements of other Local Plan policy SP52 ‘Pollution Control’.

Policy SP52 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*". It further states that when determining an application consideration will be given to, amongst other things, "...the potential noise likely to be generated by the proposed development..."

With regards to amenity, the proposed retail use is likely to be relatively low key with day-time opening hours. Whilst it is noted that neighbouring residents raised concerns about the premises opening from 08:00 the applicant has stated that the premises would open from 10:00 – 17:00 Mondays to Saturdays.

It is considered that the premises opening within these times is unlikely to have any detrimental impact on the amenity of neighbouring residents. Furthermore, the delivery times as well as the opening hours could be conditioned as part of any planning permission granted in this respect.

As such, the development would not result in a use that would be in direct conflict with criterion adopted Local Plan Policy SP11 'Development in Residential Areas', but also the requirements set out in Local Plan Policy SP52 'Pollution Control'.

#### Highway impact

With regards to highway impact the Council's Highway Engineer has made the following comments:

"With regard to this application, the application if approved will result in the change of use of approximately 229 square metres to sell agricultural goods. There is a significant number of parking spaces available at the site, though it is noted that the site offers a mixed-use facility including, café, a florist and bar which have / are being considered separately to this application. The site is also well served by public transport in the form of nearby bus stops."

In conclusion, the Council's Highway Engineer raised no concerns about on street parking from the activities at this site and raised no objections to the proposal in a highway context.

#### **Enforcement**

The change of use of the storage and distribution unit into retail use has occurred within the last 10 years and in view of the recommendation to refuse planning permission, enforcement action should be taken to require the cessation of this use at the site. Such enforcement action has already been authorised following the refusal of the previous related planning application requiring the closure of the retail unit, with a compliance period of 3 months, though no notice has been served at this stage.

#### **Conclusion**

Having regard to the above it is considered that the applicant has failed to justify the requirement for this retail use to be located in this out of centre, residential location. The submitted Sequential Test identifies suitable sequentially preferable alternative sites, which is confirmed in para 5. 2 of the submitted Sequential Test. As such, it is considered to be contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF. As such, it is considered that the application should be refused on this basis.

### **Reason for Refusal**

01

The submitted Sequential Test identifies suitable sequentially preferable alternative sites. As such, it is considered that the development is contrary to adopted Local Plan Policies CS12 'Managing Change in Rotherham's Retail and Service Centres and SP11 'Development in Residential Areas' and guidance contained within the Adopted SPD7 'Town Centre Uses and Developments' and guidance contained in the NPPF.

### **Informative:**

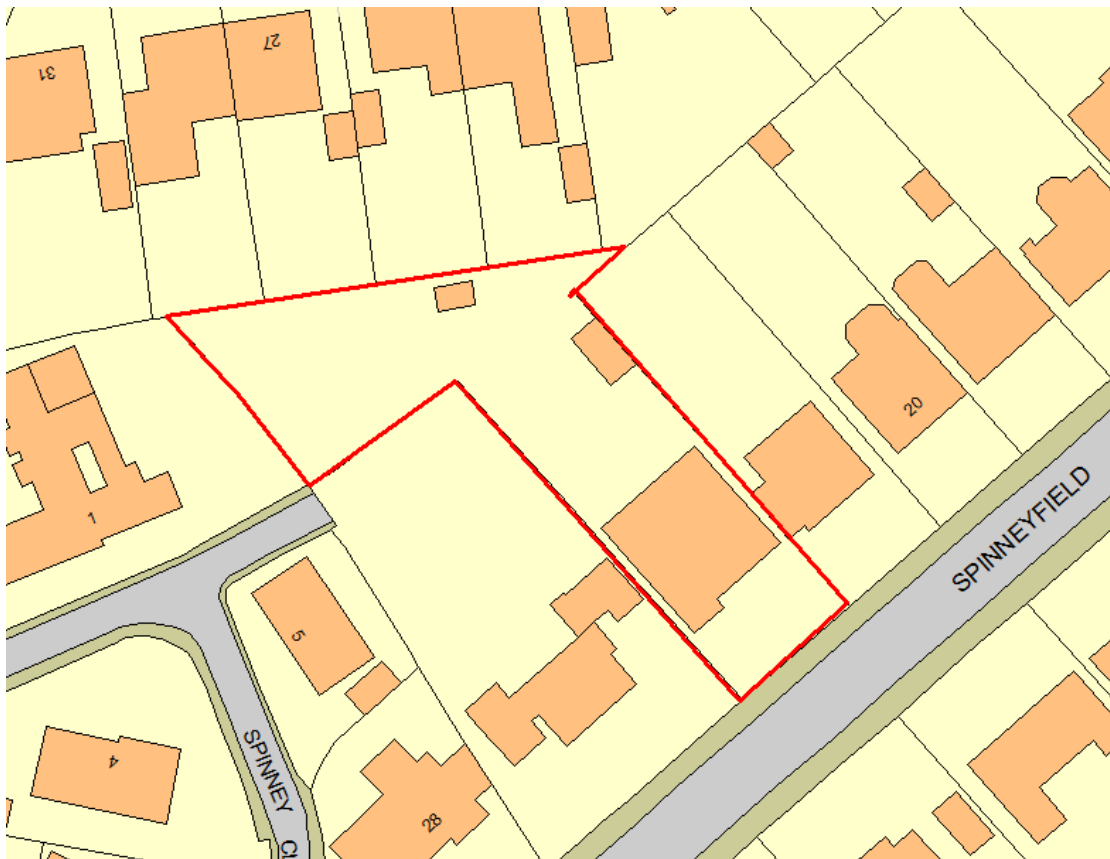
Enforcement action has been authorised to secure the cessation of the use of Building A for retail purposes (Class E), with a compliance period of 3 months.

### **POSITIVE AND PROACTIVE STATEMENT**

The applicant did enter into pre application discussions with the Local Planning Authority. These discussions identified that the scheme was unacceptable. It is considered not to be possible to support a scheme of this nature nor would any amendments make it acceptable. It was not considered to be in accordance with the principles of the National Planning Policy Framework and resulted in this refusal.

<b>Application Number</b>	<b>RB2023-0927</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/0927">https://rotherham.planportal.co.uk/?id=RB2023/0927</a>
<b>Proposal and Location</b>	<b>Proposed external ramps to front and rear of property, 24 Spinneyfield, Moorgate</b>
<b>Recommendation</b>	<b>Grant Conditionally</b>

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



### **Site Description & Location**

The applicant is 24 Spinneyfield a bungalow with a hipped roof and single storey flat roof extension to the rear. It's generally of brick construction and clay roof tiles. Parking for some 5 cars is provided to the front.

Spinneyfield is a typical suburban inter war street defined by a mixture of detached bungalows and two storey red brick dwellings, with large residential gardens.

### **Background**

RB2022/1550 - External access ramps to front & rear and demolition of garage and erection of detached outbuilding to rear to provide ancillary living accommodation - WITHDRAWN

## **Proposal**

The applicant seeks retrospective permission for disabled access ramps to the front and rear. The ramps provide access for the residents to the front drive and the rear garden. The ramps are constructed in concrete with metal handrails painted black. The maximum height of the ramps both front and rear are 450mm.

This application relates only to the external ramps and does not concern the use of the property. It is understood that the property is used for supported living which is not considered to represent a change of use and the property

The applicant has submitted a supporting statement regarding what use class the use falls into. This has been submitted by the applicant due to the number of objectors raising concerns about a change of use. The contents are paraphrased below:

- 24 Spinneyfield provides a type of supported living accommodation that falls squarely within Use Class C3(b) - up to 6 people living together as a single household and receiving care. It meets the definition of "specialised supported housing" in government guidance. The residents have disabilities but are living together, interacting, and working towards goals to enhance their independence over time.
- The letter analyses planning case law, arguing that previous judgments support the view that Use Class C3(b) can cover accommodation even with full-time care, provided the residents live together as a household. The number of residents, nature of disabilities, and whether carers live on-site are not definitive. At 24 Spinneyfield the residents interact, dine together and live with independence.
- The submission includes a recent appeal decision allowing Use Class C3(b) for a property with 2 men with additional needs and rotational care workers. This has clear parallels with 24 Spinneyfield.
- The use at 24 Spinneyfield falls entirely within Use Class C3(b) based on legislation, case law and appeal precedent.

## **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:

CS27 Community Health and Safety  
CS28 Sustainable Design  
SP11 Development in residential Areas  
SP52 Control of Pollution  
SP55 Design Principles

### **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 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 Adopted SPDs:

Supplementary Planning Document (SPD) – Householder Design Guide

### **Publicity**

The application has been advertised by way of site notices along with individual neighbour notification letters to adjacent properties. 12 letters of objection have been received stating that:

- No wheelchairs residents have used the ramps
- The ramps have been erected without planning permission
- The Property is being used as a care facility/business contrary to restrictive covenants on the property.
- The ramps are an eyesore and lower the tone of the neighbourhood
- The property is run as 24/7 care business to the detriment of the amenity of neighbours.
- The residents are causing nuisance by improperly using neighbour's bins, throwing items and trespassing onto front gardens.

The applicant and four objectors have requested the right to speak.

## **Consultations**

RMBC – Transportation Infrastructure Service: No objections

## **Appraisal**

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

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

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

The main considerations in the determination of the application are:

- Whether a change of use has taken place
- Visual Appearance
- Impact Upon Neighbouring amenity
- Highway Issues
- Other issues raised by objectors

## **Whether a change of use has taken place**

Whilst this application relates to disabled access ramps one of the primary concerns of local residents is that the ramps are part of a change of use to care home which requires planning permission and falls within a C2 use class.

The applicant is of the opinion that the property is being used for Specialised Supported Housing (SSH) accommodation under use Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended). They have also provided evidence of case law to support the case that no change of use has taken place.

The applicant indicates that a maximum number of 4 residents with carers present during the day and as waking night support. The property is Supported Living rather than a Care Home, the individuals support packages are agreed between Rotherham Council Social Services and the support provided is tailored to the individuals. The property is commissioned as supported living, with a Housing Partner providing the housing management and the Care Provider providing the care and support. Support includes, but not limited to; financial support, development of independent living skills,

support to access the community, some personal care depending on needs, and support with routine health care appointments.

The Council must therefore consider whether the use falls within:

A C2 Residential Institution: Use for the provision of residential accommodation and care to people in need of care, or

Class C3 – Dwellinghouse (b) not more than six residents living together as a single household where care is provided for residents.

Clearly Class C3(b) envisages an element of care can be provided by staff, without a dwelling becoming a care home. Whether the occupants of the property have independence and the ability to form a single household is a matter of judgement which rests upon the specific circumstances of the case. A judgement needs to consider the nature of the disability and the degree of care needed.

The occupants of the property have a tenancy agreement with the landlord and form a household within the dwelling. The occupants are also responsible for their cost of living and are entitled to a range of benefits and grants. The purpose of the accommodation is to enable vulnerable adults to lead as normal and as independent a life as possible.

With these circumstances in mind the Council is of the opinion that the use falls within the C3(b) use class and as such does not require planning permission for a change of use.

In addition, even if the Council were minded to conclude that the change of use to a C2 Residential Institution has occurred, enforcement action in this instance may not be warranted. The accommodation provides important facilities for vulnerable adults and allows them to live as independently as possible. Whilst there is a degree of coming and goings beyond a normal residential dwelling this is not excessive or harmful to neighbour amenity, and would accord with SP11 'Development in residential Areas'. The human rights and welling being of the residents is the dwelling would also need to be considered, as a move away would severely impact their health and progress in living a normal life.

### **Visual Appearance**

Local Plan policy CS28 'Sustainable Design' indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well-designed buildings. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover, it states design should take all opportunities to improve the character and quality of an area and the way it functions.

Policy SP55 'Design Principles' states development is required to be of high quality and incorporate inclusive design principles and positively contribute to the local character and distinctiveness of an area and the way it functions.

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

It is considered that the as installed railings and ramps are appropriate additions to the suburban domestic property and are required to an existing property which does not meet with such access requirements. Such an addition is common on domestic properties where wheelchair access is required or where a resident has mobility issues. Indeed, the Council itself has installed similar ramps on many private and Council properties to provide improved access.

The railings have been painted black which tones down the appearance and the rear access ramp is not readily visible from any public vantage point. Whilst the ramp to the front is relatively large, this is in order to provide a reasonable gradient so that a wheelchair user can control their descent in a controlled manner as the change in levels is some 450mm.

The proposal is therefore an acceptable standard of design in accordance with Policies CS28 'Sustainable Design' and SP55 'Design Principles' and the design aims of the NPPF.

### **Impact Upon Neighbouring amenity**

The NPPF at paragraph 135 states, amongst other things that, development proposals should ensure a high standard of amenity for existing and future users.

The Council's adopted SPD 'Householder Design Guide' at Design Guidance 1.3 states: "Balconies, decking, raised patios, verandahs and windows serving habitable rooms such as kitchens, living rooms and bedrooms should be sited so that they do not directly look into the habitable windows of adjacent houses or their private garden...."

In this instance the ramps are no more than 450mm high at their highest and intended for access only rather than as a patio or veranda feature. Even if a resident was stood on at its highest part, no undue overlooking of neighbours would occur due to the distance to boundaries with other properties. The rear ramp also allows residents access to their garden without the need for assistance.

As such the access ramps are considered acceptable in terms of neighbouring amenity.

### **Highway Issues**

The ramp to the front still allows for cars to park in the front driveway and utilise both highway accesses.

### **Other issues raised by objectors**

A number of objections have been received relating to a restrictive covenant that prevents a business from operating from the property. Obtaining planning permission from the local planning authority does not override or negate restrictive covenants. Even if a landowner obtains planning permission, if they proceed with development that breaches a restrictive covenant, they could be subject to legal action by the beneficiary of the covenant.

The enforcement of restrictive covenants is a private Civil matter and not something that can be considered as part of any Planning Permission and potential Enforcement action.

Finally in terms of the antisocial behaviour issues raised, including throwing projectiles, accessing other front garden and using neighbour's bins, these issues can not be considered as part of this application and in any event are not untypical neighbour disputes.

### **Conclusion**

The access ramps and railings as installed are an acceptable feature in keeping with the character of the host dwelling and the street scene. Furthermore, the ramps will not harm neighbouring amenity by way of overlooking. As such the scheme accords with Local Plan Policies CS28 'Sustainable Design', SP55 'Design Principles', the Council's SPD 'Householder Design Guide' and the guidance contained within the NPPF.

### **Conditions**

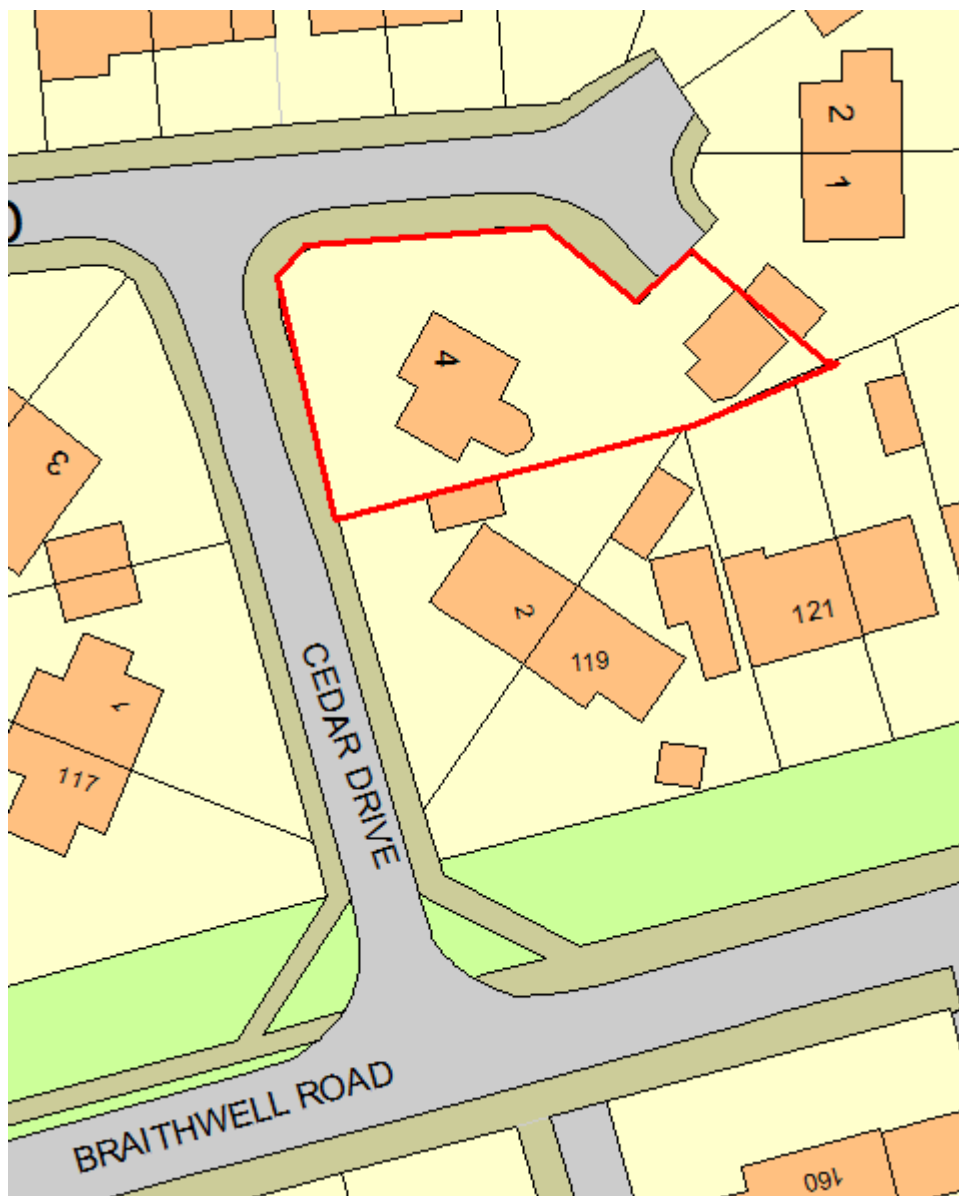
No conditions

### **POSITIVE AND PROACTIVE STATEMENT**

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2023/1080</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/1080">https://rotherham.planportal.co.uk/?id=RB2023/1080</a>
<b>Proposal and Location</b>	First floor side extension, single storey side and rear extension, single storey front extension, creation of rooms in the roofspace with dormer window to the rear and velux windows to the front at 4 Cedar Drive, Ravenfield
<b>Recommendation</b>	<b>Grant with conditions</b>

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



**Site Description & Location**

The property is a detached two storey property located on a corner plot with Cedar Drive and the entrance to Braithwell Road. The property is surrounded by two storey semi-detached properties located on both Braithwell Road and Cedar Drive.

The property sits within a large corner plot to the north of Braithwell Road, with the host property facing Braithwell Road. The property has a driveway to the side with access from Cedar Drive. The property has established boundary treatment that wraps around the front boundary, by way of a small wall with hedges on top and the main amenity space, by way of a garden is to the front and the eastern side of the property.

## **Background**

There has been 1No. planning application on the property since it was built:

RB2006/1603 – Single storey side extension & conservatory to rear – Granted Conditionally

### **Proposal**

The application seeks full planning approval to erect a first floor side extension, a single storey side and rear extension, a single storey front extension, creation of rooms in the roofspace with dormer window to the rear and velux windows to the front.

The plans included proposes the creation of an office room to front and lounge to rear, at ground floor. A family bathroom and bedroom at 1<sup>st</sup> floor and a bedroom with en-suite at 2<sup>nd</sup> floor level.

The layout proposes an entrance door to the property in the front extension, the bay window at ground floor level omitted and French doors put in place, looking out onto the front amenity space, velux windows in the roof to the front roof slope and a flat roof dormer, in the original roof, to the rear, with 2No. windows servicing the en-suite and landing area. The roof style of the property is proposed to be changed from a hipped roof to a gable roof in order to create the roof height in the roof space for the landing area.

The existing property is constructed in brick that matches the properties within the streetscene. It has a tile roof and pan tiles to the front bay windows, which is a character trait of the area. The application proposes to built in materials to match the host property.

## **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. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):  
CS28 Sustainable Design  
SP55 'Design Principles'

### **Other Material Considerations**

'Householder Design Guide'. This has been subject to public consultation and adopted by the Council on 26 June 2020 and replaces the interim Supplementary Planning Guidance.

National Planning Policy Framework: The revised NPPF 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".

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.

South Yorkshire Residential Design Guide.

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 individual neighbour notification letters to adjacent properties. 13 letters of representation have been received from 9 separate households/individuals, including Ravenfield Parish Council. The objections can be summarised as follows;

In response to the plans:

- The proposed scheme will be extravagant, overbearing and out of character with the surrounding properties and wider residential area.
- Overlooking from the new dormer window to the rear, velux windows to the front and windows created at first floor, to the surrounding properties.
- With the property being on a prominent corner plot, the scheme will appear overbearing.
- The size of the scheme would create a property too large for the plot size.



- The local drainage system will not be able to cope with the extra bathroom and en-suites created.
- There will be issues with parking on the street and the extra vehicles to the property would cause further problems.
- The windows to the rear would need to be non opening, otherwise, whilst they are obscure glazed glass, there will still be a level of overlooking.
- Concerns the property could be turned into a Home of Multiple Occupancy.
- Breach of the party wall act, the extension will be very close to the neighbouring boundary wall.
- Closeness of the first floor side extension and new dormer window with No. 2 Cedar Drive.
- Excessive noise and disruption from construction on the small cul-de-sac.
- Loss of light to the property at No. 2 Cedar Drive
- No Design and access statement submitted with the application, which would have provided further detail.
- Queries in regards to internal alterations and structural details not submitted.
- The velux windows to the front roof are not in line.
- Trees in the neighbouring garden have not been taken into account.
- Does not comply with the SPD in terms of closeness to the rear boundary and the neighbouring property.

The following objections have been received from Ravenfield Parish Council;

- The use of the property, will this be used as a Home of Multiple Occupancy
- The scale of the scheme would not respect the character of the surrounding properties
- Reducing of natural light to neighbouring properties
- Overshadowing of neighbours
- Reduced privacy of neighbouring amenity

## **Consultations**

RMBC (Transportation Infrastructure Service): Raise no objections

## **Appraisal**

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

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

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

The site is located within a Residential area as identified on the adopted Local Plan and as such the principle of the development is acceptable. The main issues to be considered in the determination of this application are:

- Visual impact on the appearance of the property and residential amenity.
- Other Issues raised by objectors

#### Visual impact on the appearance of the property and residential amenity

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

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." 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 others):

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

This approach is also echoed in National Planning Policy in the NPPF. The NPPF 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: Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

The NPPF further adds at Paragraph 134;

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

The supporting text to Policy SP55 'Design Principles' at paragraph 4.330 states: "Supplementary Planning Document: Householder Design Guide (June 2020) provides information to households wishing to alter or extend their property."

The Councils adopted Householder Design Guidance states;  
"Two storey side extensions should generally be set back by a minimum of 0.3 metre at first floor level on the front elevation, with the roof set down and back from the main body of the house. This is in order to create a subservient extension. The Council will be critical of two storey side extensions of excessive width. Any such extension should not exceed more than half the width of the original house. In addition the roof style of the extension should match that of the host property and parapet walls should be avoided. Where the semi is hipped, the extension should have a hipped roof and likewise with a gable roof. A two storey extension should not come within 12 metres of a ground floor principle habitable room window of a neighbouring property and have a minimum 25° vertical clearance."

The proposed first floor side element, is to be built above the existing single storey rear element on the right hand side of the host property, as seen from the street. The extension is to be set back from the front elevation and set down and back from the main body of the house. Whilst the roof of the two storey side extension does not follow suit of the existing property with a hipped roof and is proposed to create a gable roof, there are other properties within the street with gable roofs, therefore this is acceptable in this instance. The two storey side extension is to extend out to the side of the property by 3.142m Which is half the width of the original house.

Whilst the two storey extension does come within 10m of the boundary with No. 2 Cedar Drive, the room at first floor of the first floor extension is a family bathroom, therefore, there will be no overlooking or loss of privacy to the property or its amenity space resulting from the two storey side extension.

The Councils SPD Householder Design Guidance, June 2020, states that "Single storey rear extensions, on or close to a boundary, should project no more than 4m from a neighbouring property's existing rear elevation."

The Guidance also states that "The Council will be critical of side extensions of excessive width and for a single storey extension this should not exceed more than 2/3 the width of the original house."

The existing rear conservatory is to be demolished and in its place will be a wrap around single storey side and rear extension. Both the single storey side and rear element will project out by 4m. The 4m projection to the side will comply with the SPD Guidance as it will be less than 2/3 the width of the original house. The projection to the rear will comply with the SPD as it will project no further out than 4m. With this in mind and with the extensions being set in from neighbouring boundaries, the single storey elements will not cause harm the adjoining neighbouring properties. Whilst the single storey side extension does project out into the main amenity space of the property, there is still adequate amenity space remaining. Therefore, the single storey side and rear extension is acceptable.

The Councils SPD Householder Design Guidance, June 2020, states that “front extension should not harm the character and appearance of the host property or be of a design out of keeping with others in the street. The impact on the amenities of the neighbouring property should also be considered and any front extension should project no more than 2m, or 1m when it is within 2m of a neighbouring window.”

The proposed front extension is to extend off the right hand side of the existing property, where the existing entranceway to the property is. It will extend to the side to link in with the existing single storey side off shot. The front extension is to form a new entranceway and office room to the front of the house. The extension will project 2m forward of the property and this will comply with the SPD. It will not be within 2m of the neighbouring properties habitable room windows and it is not considered that there would be a detrimental impact on residential amenity of neighbouring properties. The office room created will have a window to the front, but no windows are proposed in the side elevation. Therefore, there will be no loss of privacy or overlooking to the neighbouring property at No. 2, from this room. The only outlook will be to the street. There are other front extensions within the streetscene and therefore, the front extension will not be an alien feature within the street and is deemed acceptable.

The Councils SPD Householder Design Guidance, June 2020, states that “Loft conversions or rooms in the roof space are often advised as a simple way of providing extra living space. However, there can be problems. Increased overlooking of neighbours properties can be a problem. The Council will be critical of all proposals which have a significant effect on neighbours’ privacy. Where a dormer is to be built, it should be modest in size, relative to the size of the roof and should be designed to reflect the architectural character of the house.”

The proposed dormer window to the rear is to be sited in the existing roof. The dormer will come no higher than the existing ridge and will be of proportionate size for the size of the existing roof. The dormer windows will look out from a landing space, which would be classed as a non habitable room and a En-suite, which will be fitted with obscure glazed glass. Therefore, there will be minimal overlooking or loss of privacy from the rooms onto the neighbouring properties amenity space at No. 2. The dormer window to the

rear is deemed acceptable as it complies with the SPD and will not be harmful to the surrounding neighbours.

The Councils SPD Householder Design Guidance, June 2020, states that “roof lights will have less of a visual impact upon the appearance of the house and will reduce possible overlooking.”

The velux windows to the front of the property will be positioned in the roofslope to provide light to a bedroom created in the roofspace and the staircase. The velux windows are positioned far enough up the roof that there will be no overlooking or loss of privacy to the street from these windows. They are therefore acceptable.

Taking the above into account, the proposed scheme complies with the Councils SPD Householder Design Guidance, June 2020, and will therefore, not cause harm to the character of the property or others within the streetscene. It will not create a scheme that is too large for the existing property or the prominent plot but will appear to be an adequate addition and will improve the quality of the design of the house. There are a mixture of design features within the streetscene and will enhance the appearance of the current property. The scheme is therefore acceptable in regards to its appearance.

Objections in regard to the original plans have been received from nearby occupiers with regard to potential loss of privacy from the dormer windows and first floor side extension, which could result in increased overlooking of neighbours properties and private garden areas and overshadowing from the increase in roof height. Where facing back to back windows may not comply with the policies above, the rooms that are to be positioned in the rear elevations of the new extension and dormer window are either non habitable rooms or will have obscure glazed glass within them.

With this in mind, it is recommended that a condition be attached to any approval granted to prevent any future internal changes to the layout. It is also recommended that a condition be imposed preventing any additional windows or roof lights be fitted without the prior approval of the Local Planning Authority.

Whilst the plans are considered to address the issues raised by most of the neighbouring residents in terms of overlooking it is acknowledged that the neighbouring property at No.2 has objected that due to the close proximity of the extension to the boundary stating that it will be overbearing to their property and amenity space. With this in mind, whilst the proposed first floor extension will be close to the boundary, the properties are at an angle and No.2 has a garage sited in between their house and the boundary. Therefore, the extension is over 6m away from the property and with the garage in place of a buffer between the two, the impact in terms of being overbearing will not be significant on No.2. The single storey rear element, although close to the neighbouring boundary, will be set in from the boundary and therefore, will only have minimal impact upon the amenity space of this neighbour. No. 2

lies to the south of the application site and the impact in terms of overshadowing is therefore considered to be minimal.

The proposals are not considered to appear unacceptably overbearing or oppressive in relation to neighbouring properties or from other properties within the street. With the positioning of the first floor extension and the dormer windows, the scheme would not give rise to any overshadowing or a significant loss of direct sunlight and / or natural daylight to habitable room windows of neighbouring properties.

Taking all of the above into account the proposals are considered to comply with both national and local policies and guidance in terms of the potential impact on neighbouring residents.

#### Other issues raised by objectors

In terms of the other issues raised by the objectors. The drainage issues which are raised would be considered by Building Control. In terms of the extra parking to the street, the Councils Highways Officer has made no objection to the scheme as 3 No. parking spaces will be supplied for the 5 bedroom property. this will meet the councils Parking Standards.

With regard to the property being turned into a HMO, the applicant has confirmed that the property is being extended for family use and will not be turned into a HMO.

The issues regarding the Party Wall Act is not a material planning consideration. Whilst we acknowledge that some noise will be made during the construction phase, this is for a temporary construction period and would not warrant a refusal of planning permission.

In terms of the trees in the neighbouring properties gardens, it is assessed that the trees are sited far enough away that no significant impact would be placed upon them.

#### **Conclusion**

In conclusion and having regard to the above it is considered that the proposed scheme would achieve an acceptable design in relation to the existing streetscene and would not result in an unacceptable impact on neighbouring amenity and would comply with the Council's Policy and Guidance.

#### **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 Plans and Elevations – Ref – CD106 received 12 January 2024.

Block Plan – Received 21 August 2023

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted application form/shown on drawing no CD106. The development shall thereafter be carried out in accordance with these details.

Reason

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

04

The materials used in the external surfaces of the dormer window extensions hereby approved shall be of a similar appearance to those used in the construction of the existing roof.

Reason

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

05

The dormer windows on the rear elevation of the roof slope and the window at first floor level in the proposed first floor side extension, facing 2 Cedar Drive shall be obscurely glazed and fitted with glass to a minimum industry standard of Level 3 obscured glazing and be non-openable, unless the part(s) of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window(s) shall be permanently retained in that condition thereafter.

Reason

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

06

There shall be no additional windows inserted at first floor, or in the dormer window without prior written consent of the Local Planning Authority.

Reason

In the interest of preventing loss of privacy to neighbouring properties

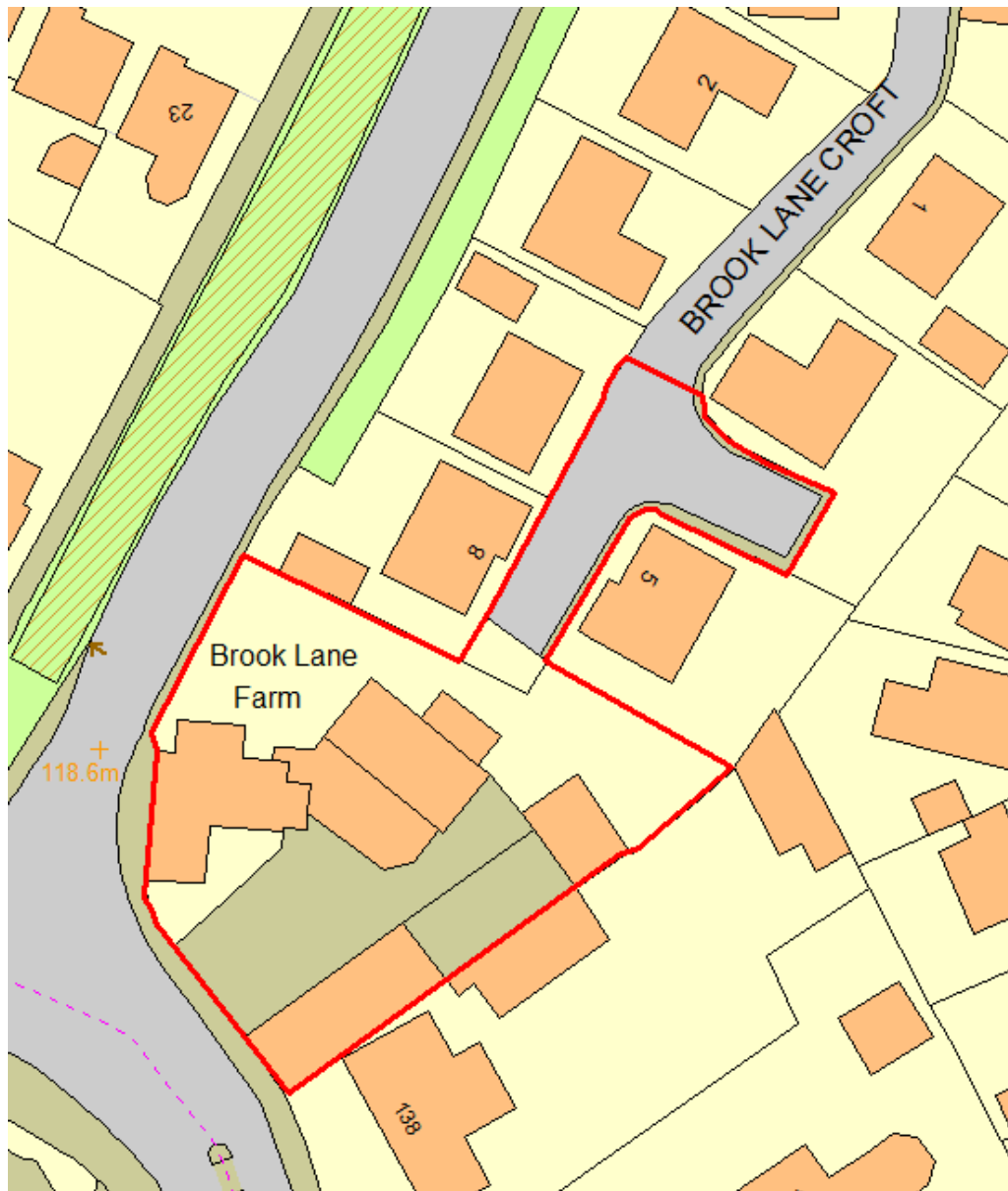
## POSITIVE AND PROACTIVE STATEMENT

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.

<b>Application Number</b>	<b>RB2023/1478</b> <a href="https://rotherham.planportal.co.uk/?id=RB2023/1478">https://rotherham.planportal.co.uk/?id=RB2023/1478</a>
<b>Proposal and Location</b>	Provision of secondary vehicular access from Brook Lane Croft with 2.5m high timber gates and alterations to land levels within site at Brook Lane Farm Main Street Bramley S66 2SF
<b>Recommendation</b>	<b>Grant conditionally</b>

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





### Site Description & Location

This application relates to a site which is located on the corner of Main Street and Brook Lane at Bramley. The site contains the original farmhouse and assorted outbuildings with an existing vehicular access onto Main Street. Towards the rear of the site is a large barn which appears to have suffered some structural damage recently as part of the roof has collapsed. A steel container is located to the rear of the barn.

Adjacent to the site at the front is 138 Main Street is a Grade II Listed Building known as 'Stonecroft'.

The land to the north of the site was redeveloped for residential use under planning approval RB2013/0817 and forms Brook Lane Croft which is accessed from Gaunt Drive. Brook Lane Croft is a small cul de sac containing 7 dwellings with a turning head between Nos 3 and 5. This land is at a lower level and there is a low retaining wall with fence on top forming the boundary

between the end of Brook Lane Croft and the garden area of Brook Lane Farm.

## **Background**

There are no relevant applications relating to the site, the following application relates to the construction of the dwellings to the rear on Brook Lane Croft:

RB2013/0817          Demolition of existing garage to form new access and erection of 7 No. 2 storey dwellinghouses and replacement parking provision for Nos 31 & 38 Gaunt Drive – Granted conditionally.

## **Proposal**

This application seeks full planning permission to remove a 5.5m section of the existing rear boundary retaining wall and fencing on top adjacent to the end of Brook Lane Croft to create a new additional vehicular access into the rear of the application site. The proposal also includes the erection of 2.5m high timber gates to the new access and the alteration of land levels within the site to create a hardstanding.

The applicant's agent has stated that his client is currently living in the house and is struggling with moving his cars on the site (he has five vehicles) and would find it easier to manage with this secondary access, hence the application.

The submitted details indicate that the gates will be designed to match the appearance and height of the existing fencing and will be located centrally across the top of Brook Lane Croft.

As the land levels within the site are slightly higher than the adjacent adopted highway it is proposed to reduce the levels to create a graded access with the installation of strip drainage to the gated access which is proposed to discharge into a proposed soakaway within the site.

The proposed works also include the removal of an existing storage container located within the rear area of the site adjacent to the rear of the barn.

The submitted plans have been amended several times following discussions with planning and highways officers in order to achieve an acceptable position for the gates in regard to highway safety

## **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:

CS14 'Accessible Places and Managing Demand for Travel'  
CS27 'Community Health and Safety'  
CS28 'Sustainable Design'  
CS33 'Presumption in Favour of Sustainable Development'  
SP26 'Sustainable Transport for Development'  
SP52 'Pollution Control'  
SP55 'Design Principles'

### **Other Material Considerations**

National Planning Practice Guidance (NPPG)

National Planning Policy Framework: The NPPF (as revised) 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 notices along with individual neighbour notification letters to nearby properties.

Objections have been received from the occupiers of 14 addresses, the concerns raised can be summarised as follows;

- This would in effect become a cut through putting children, pedestrians and all at risk. Children play on the front of the properties at the top of Brook Lane Croft, opening this up will increase the speed of approaching traffic. This road was not designed to cope with such traffic.
- Will lead to an increase in heavy goods vehicles on the estate.
- Visitor parking is already an issue.
- Access to adjacent driveways could be compromised by vehicles left parked in the entrance.
- Vehicles would have to reverse out into the road to access the turning area, adjacent driveways may be used as turning areas.
- Intervisibility between the new access and existing driveways, which is already an issue for vehicles leaving the adjacent properties.
- No details as to whether the gates will be manual or electric and what will prevent them opening out onto the highway.
- Increased traffic will result in loss of privacy.

- The estate is currently experiencing a high volume of break ins and theft and this would create an easier entrance and egress to the estate for thieves.
- Impact on property value.
- Concerns with regard to future use of the land and reason for needing the second access which potentially could lead to a further application to develop the land.
- Concern with regard to hazardous materials leaving the site.
- A deciding factor to moving here relates to the development being complete including the lane up to the end wall being adopted and maintained by the Council.
- The site has a long established access and this application does not form part of an overall development plan for the site, therefore there is no justification for it.
- Risk of surface water flooding from the site onto the adjacent highway. Any hardstanding should be porous.
- Lowering the ground level on site may affect the stability of the derelict barn on site.
- No details as to how the existing container of any waste will be removed from site.
- No details of biodiversity or contaminated products on site have been provided.
- Incorrect details of boundary ownership on the application.
- Alterations proposed to adjacent boundary which is not in the applicant's ownership.
- Multiple amended plans received
- There was a legal agreement when the land was sold for the Brook Lane Croft development that this would remain a cul de sac

At the time of writing this report, 4 Right to Speak requests have been received from the applicant and three objectors.

The applicant's agent has submitted the following points (summarised) in response to the objections raised:

- The final version of the site layout notes a central access gateway and alteration of my client's boundary which allows a neighbour to alter their boundary, if they have concerns over and above Highways oversight, allowing a controlled access/egress from the site. (*Concerns have been raised by an objector about the proposal to alter a section of the fencing which was later found to be in the neighbour's ownership*).
- We have agreed that a report will be provided by a structural engineer to determine the effect the small amount of ground to be taken away to form the access has on the stability of the existing barn, including a method statement for removal of the existing steel container.
- The new access is a secondary access/egress complimenting the site and will not be heavily used. The access is used ONLY to remove cars from his site when it would be more difficult to use the main access and drive from site in forward gear.

- The proposed 2.5m high gate is more difficult to climb over than an “assisted” 1.8m fence behind a wall, as existing. The gates will be closed and secured when not in use.
- My client in fact owns “the dirt under the adopted highway” and when the road is no longer required to be adopted by Highways, this area covering part of Brook Lane Croft will revert to my client’s ownership, not that this scenario is likely. My client has allowed in this application the increase of visibility from 5 Brook Lane Croft’s driveway, if they alter their own boundary – if they do not alter their boundary, it is still seen as safe by Highways. In the case of planning being approved, my client will discuss this alteration with the owner of 5 Brook Lane Croft and offer to undertake this work himself (*alteration of the side boundary with No. 5*).
- The car parking area is not being altered.
- All surface water that falls on the site in this area is being collected.
- The asbestos in the existing barn is on the opposite side of the barn. My client is aware of its existence. Contamination will be flagged to the council if it is encountered or will be removed or sealed into the ground locally by the surfacing if below the driveway. We do not expect any contamination on this side of the building.
- The objector’s speculation on future development is not part of this planning application and does not need to be assessed. We can say that the proposed access decided under this application will need to be further altered when the conversion of the existing barns is assessed and submitted, but this application is not preparing for that future scheme, as can be seen from early version of this access (accessing the corner of the site, not ideal for parking for the main barn) and the fact that restrictive retaining walls have been specified (would need relocating to enable car parking).

## **Consultations**

RMBC – Transportation Infrastructure Service: Note that the revised layout now demonstrates that the proposed access will be taken directly from the end of the existing adopted highway and that a car can access / egress the site in a forward gear as a turning facility for a car is to be located within the site. As such they raise no objections to the proposal in highway terms subject to the imposition of conditions relating to the provision of a turning space and drainage of the site.

RMBC – Land Contamination: Historically, the site was formally occupied by Brook Lane Farm with associated barns, outbuildings and farmhouse in excess of around 100 years. Under planning application RB2013/0817, permission was granted for the construction of residential development within the far north of the site. As part of this application, a Phase 2 land contamination report was submitted, which identified some limited contamination was present at the site. At that time significant contamination was not identified, though further investigations were recommended following site clearance works and removal of a concrete pad.

The former farm buildings were recorded as containing cement bonded asbestos in the roof and wall panels. However, these buildings were located on the former concrete pad and it is unlikely that the soils beneath the former concrete pad were affected by asbestos containing materials.

Some made ground, which can give rise to contamination, may be present beneath the proposed access road. However, these materials are unlikely to have any significant impact to human health and the environment from the proposed development works. A watching brief should be undertaken by a suitably qualified person when works commence to ensure any contamination encountered, including asbestos containing materials, is correctly identified and recorded. Appropriate Health and Safety measures should be adopted if asbestos containing materials are encountered.

Importation of materials to site to raise ground levels may be required for the development of the access road. It will need to be demonstrated that these materials are suitable for use and will not contain any contamination.

Similarly, any materials taken for off site disposal will need to be taken to a Licensed Waste Management Facility and this will need to be evidenced.

Conditions are recommended to address the issues raised.

RMBC – Environmental Health: Have raised no concerns with regard to loss of amenity by virtue of noise, air quality or land pollution.

## **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
- Impact on amenity
- Highway issues
- Design issues
- Land contamination
- Drainage
- Other concerns raised by objectors

### Principle

The creation of a new access onto an unclassified road such as Brook Lane Croft does not need planning permission unless it is required in connection with works that require planning permission.

In this instance the installation of gates over 2m in height adjacent to the highway and the alterations to land levels within the site require planning permission and therefore the access does also.

Objectors have questioned the need for an additional access and highways officers note that whilst Brook Lane Farm currently has vehicular access to Main Street, Main Street is a very busy B Classified highway and the existing access is considered substandard in terms of visibility.

The proposal is considered to be acceptable in principle and other issues raised are discussed below.

### Impact on amenity

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..."

Paragraph 135 (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.

Concerns have been raised by local residents that the creation of an additional access to this site will result in an increase in theft and break-ins in the area as it would provide an additional route from the estate through the site.

With regard to this the site is private land and the application proposes gates to be installed to the same height as the existing fence thereby preventing any unauthorised access to the land.

Brook Lane Croft is currently a cul de sac and concerns have been raised that an additional vehicular access from the cul de sac would result in a loss of privacy to existing occupiers.

The access proposed will serve the existing site and as such it is not envisaged that this will result in a large increase in vehicles accessing the site as there will only be limited additional on site parking provided.

### Highway issues

Paragraph 115 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.”*

Brook Lane Croft is an adopted highway and maintained by RMBC, in engineering terms, the scheme, if approved, will not require any alteration to the existing adopted highway. All works will be on the applicant's land and will involve removing the boundary wall / fence and adjusting land levels.

Objections have been raised with regard to the safety of existing occupiers due to vehicles reversing out into the highway. The revised proposal demonstrates that the proposed access will be taken directly from the end of the existing adopted highway and that a car can access and exit the site in a forward gear as a turning facility for a car is to be located within the site.

In terms of the concerns regarding the speed of vehicles approaching the site, this is located at the end of a small cul de sac and as such it is not envisaged that motorists will be able to approach at speed.

With regard to the potential loss of visitor parking in the highway, this is public highway and there are no designated parking areas.

#### Design issues

In terms of design Local Plan 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.*

The proposed alterations to the existing fencing and the creation of gates to a matching design are not considered to have any adverse impact on the existing streetscene.

Adjacent to the site at 138 Main Street is a Grade II Listed Building known as 'Stonecroft'. This is located at the front of the site. The proposals are not considered to affect the setting of the Listed Building due to the works being sited wholly to the rear of the site and the limited nature of the proposed alterations.

#### Land contamination

With regard to the concerns raised in terms of the removal of the existing container on site and any potential waste materials, Local Plan SP52 'Pollution Control' states that

“Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity. When determining planning applications, particular consideration will be given to: (amongst others)

- a. the detrimental impact on the amenity of the local area, including an assessment of the risks to public health”



The land contamination officer has assessed the proposals and states that the land has been occupied by farm buildings for over 100 years. Under planning application RB2013/0817, permission was granted for the construction of residential development within the far north of the site. As part of this application, a Phase 2 land contamination report was submitted, which identified some limited contamination was present at the site. At that time significant contamination was not identified, though further investigations were recommended following site clearance works and removal of a concrete pad.

Cement bonded asbestos was recorded as being present in the former farm buildings, however, these buildings were located on the former concrete pad and it is unlikely that the soils beneath the former concrete pad were affected by asbestos containing materials.

There may be some contamination present beneath the proposed access area however the officer considers that this is unlikely to have any significant impact to human health and the environment from the proposed development works.

A watching brief should be undertaken by a suitably qualified person when works commence to ensure any contamination encountered, including asbestos containing materials, is correctly identified and recorded.

Similarly, any imported materials or materials taken for off site disposal will need to be checked and disposed of at a Licensed Waste Management Facility and this will need to be evidenced.

Conditions in relation to the above are recommended to address any contamination found.

#### Drainage

A number of residents have raised concerns that the opening up of the boundary and the change in land levels will result in surface water running off onto the adjacent highway.

The proposal includes the installation of drainage to the entrance which will be discharged into a proposed soakaway within the site. An appropriate condition to ensure the drainage of this area is recommended.

#### Other considerations

In terms of other issues raised by objectors, any impact on property values arising from a planning proposal is not a material planning consideration and cannot be taken into account in the assessment of the proposal's merits.

Questions have been raised by objectors with regard to the need for an additional vehicular access and whether this would lead to further development of the site. The applicant has not provided any details of this as part of this application and the Planning Service can only assess the details submitted.

Lowering the ground level on site may affect the stability of the derelict barn on site – the plans indicate a possible pathway to be left around the barn to prevent any damage to the barns foundations. However, it is recommended that a condition is imposed requiring the submission of a structural survey for the barn prior to commencement.

An objector refers to biodiversity impacts, though the impacts of a development of this scale and nature would not be significant.

Comment has been raised about ownership details, though this is not a material planning consideration.

Objectors are concerned that the correct processes have been followed in determining the application, though this is not relevant to the application itself.

Concerns have been raised that multiple amended plans have been submitted. Most of these were at officer's request to address access issues and to clarify various details.

It has been raised that there was a legal agreement when the land was sold for the Brook Lane Croft development that this would remain a cul de sac. No through road is proposed as part of this application therefore this remains a cul de sac. However any legal agreement would not prevent planning permission being granted.

## **Conclusion**

In conclusion, the creation of a new access into the rear of the existing site with associated change in land levels and erection of new gates is considered to be acceptable in this location.

The application is 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 **07** 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 **07** are fundamental to the acceptability of the development and the nature of the further information

required to satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.'

01

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 location plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans

Drawing nos: JBA.4213.101 Rev F Received 24 January 2024 and turning motions plan received 14 December 2023.

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details provided in the submitted application form/shown on drawing no. JBA.4213.101 Rev F The development shall thereafter be carried out in accordance with these details.

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 properly 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.

All to the satisfaction of the Local Planning Authority and 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 in the interests of the adequate drainage of the site, road safety and residential amenity.

05

The proposed turning space as indicated on the submitted plan shall be provided and maintained at all times for vehicular manoeuvring purposes.

Reason

In the interests of highway safety.

06

Details of the proposed gates shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented and thereafter retained. At no time shall the gates open out into the highway.

Reason

In the interests of highway safety

07

Prior to the commencement of the development, the developer shall submit a structural report of the barn for the approval of the Local Planning Authority. The report shall address the stability of the barn following the proposed alterations in the adjacent ground level, and all recommendations and remedial works contained within the approved report shall be implemented by the developer in accordance with the approved details.

Reason

In the interests of the safe development of the site

08

If stone/subsoil/topsoil is required to be imported to site to raise site levels, then these materials 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 and suitable for use.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework.

09

If during development works unexpected significant contamination is encountered, 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 the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework.

10

Following completion of all ground works a Validation Report shall be prepared by a suitably competent person and will be forwarded to the Local Planning Authority for review and comment. The Validation Report shall include details of the works undertaken on site, together with the necessary documentation detailing what waste materials have been removed from the site and the results of appropriate testing (including an interpretation of those results) on any materials imported to site. Duty of Care Waste Transfer Notes for any waste removed from site will be required as part of the Validation Report.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework.

#### 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.