

**REPORT TO THE PLANNING BOARD TO BE HELD ON THE
10TH OCTOBER 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.

Application Number	RB2023/1033 https://rotherham.planportal.co.uk/?id=RB2023/1033
Proposal and Location	Demolition of existing buildings, erection of 25 dwellings (Use Class C3) and change of use and conversion of existing listed building to 7 dwellings (Use Class C3) at land west of Doncaster Road, Thrybergh
Recommendation	<p>(A) That the Council enter into a satisfactory Agreement under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <ul style="list-style-type: none">• Commuted sum of £16,000 towards sustainable transport measures.• Commuted sum of £24,054.24 towards the removal of existing bus stops and provision of 2 no. new solar powered bus shelters in Doncaster Road.• Commuted sum of approximately £28,000 towards healthcare provision in the area.• Establishment of a Management Company to manage and maintain the area of on-site open space.• Establishment of a Management Company to manage and maintain the existing bat roost.• The phasing of the development to ensuring that minimum works are carried out in respect of the conversion of the Grade II Listed Barn and the former agricultural buildings. <p>(B) Subject to the satisfactory signing of such an agreement the Council grants permission for the proposed development subject to the conditions set out in this report.</p>

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



Site Description & Location

The site is approximately 1.25 hectares in size and comprises the former Fosters Garden Centre site with a large area of hardstanding and a former garage site.

The site is off Doncaster Road, Thrybergh and is currently vacant.

There is a large range of former agricultural buildings in the north eastern corner of the site, which was formally part of the Garden Centre. There is a Grade II Listed barn to the south east of the range with the remaining agricultural buildings forming a 'U' shaped arrangement. A bat roost is located in the existing, vacant buildings.

There are residential properties to the north on Chestnut Court and to the south west.

The site is allocated housing site H27 land to the south east of the site is an allocated housing site H26 in the adopted Local Plan which extends to an additional 16.73 hectares. The vehicular entrance to this allocated housing site crosses the current application site onto Doncaster Road.

The land to the west comprises of open fields and is designated as Green Belt. In addition, Local Wildlife Site (Thrybergh Tip LWS079) is located to the west.

Across Doncaster Road to the east is 'Deer Park Farm' which includes retail units, a café and a bar.

Background

There is a long planning history at this site that relates to its former commercial use. However, none is considered to be relevant to this application other than the Listed Building Consent application for the conversion of the Listed Building on the site, which is as follows:

RB2023/1033: Conversion of existing listed building to 7 dwellings:
Undetermined

Community Infrastructure Levy

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

Proposal

The proposal is for the erection of 25 No. dwellings with the conversion of the former agricultural buildings and listed building into an additional 7 no. dwellings in a town house arrangement. Therefore, a total development of 32 No. dwellings.

The plans were amended during the course of the application process by removing living accommodation below the bat roost, and amending the layout of the new housing primarily so as to provide a stronger road frontage appearance, and to include all of the land allocated for residential purposes under H26.

There would be a mix of house types. The mix is as follows:

- 10 No. detached dwellings
- 2 No. semi-detached dwellings
- 13 No. terraced dwellings

The conversion would consist of the following:

- 3 No. 4 bedroom town houses
- 2 No. 3 bedroom town houses
- 1 No. 2 bedroom town houses
- 1 No. 1 bedroom town houses

The proposal includes 3 rows of town houses fronting Doncaster Road with rear parking. The detached and semi-detached dwellings would be located to the rear of the site with in-curtilage parking.

The converted buildings would have no private gardens with a central shared courtyard, and a communal bin and cycle store, with a parking area located to the west.

There is a large area of public open space proposed to the front of the listed building fronting onto Doncaster Road.

There would be an access road running through the site to the western corner allowing access into the allocated housing site (H26) to the southwest.

The new build dwellings would be constructed of a mix of brick and render with dark grey and terracotta tiles.

Design and Access Statement

The Statement provides details on the site, its surroundings and the built form of the area. It sets out the design brief and provides a detailed breakdown of the design proposals including concept, public realm, built form etc. There are details on consultation and building for life.

Planning Statement

The Statement provides details on the site, its surroundings as well as an overview of the proposed development. It gives details of the consultation with Ward Members and provides a policy overview and assessment.

Transport Assessment

The Transport Assessment concluded that the; “proposals will not result in a ‘severe residual cumulative impact’ (the test set out in the NPPF); indeed, they will be complementary to the prevailing policy agenda. As such, there are no substantive highway grounds why the development should not be granted consent.”

Affordable Housing Statement

The Affordable Housing Statement addresses the provision of relevant affordable housing consideration in light of national and local policy. The Statement argues that the floorspace of the vacant buildings on the site is greater than the proposed development and qualifies for vacant building credit (such that no affordable housing provision is required).

Noise Impact Assessment

The submitted Noise Impact Assessment concludes that the noise environment at the site emanates from Doncaster Road. Suitable mitigation measures are recommended, including sound insulation works to the proposed dwellings, to protect future residents from the ambient noise climate.

Ecological Impact Assessment

The Ecological Impact Assessment makes an analysis of the ecology value at the site and the bats present on the site, including bat surveys. The Assessment makes recommendations for mitigation measures and suitable ecological enhancements at the site. In respect of the nearby Local Wildlife Site it is noted that there does not appear to be any hydrological features that connect the site to the LWS. As such, there is a negligible risk of the development having an adverse impact on the conservation interest of the LWS, including on the water resource.

Biodiversity Net Gain Assessment

The submitted Biodiversity Net Gain Assessment concludes that: “The Site habitat baseline provides a total of 0.27 habitat units with a total area of 1.11 ha (excluding estimated tree area). The results of the biodiversity net gain assessment for the habitat areas demonstrated that the post-development habitats proposed for the Site would result in a net change of +2.03 habitat units resulting in an overall net change of +753.30%.”

Archaeology and Heritage Impact Assessment

This concludes that: “The site was originally fields and part of a post-medieval farm, south of a medieval settlement, first recorded dating before the 11th century and as such, archaeological work may be required in advance of the determination of any forthcoming planning application and subsequent development.

The Grade II Listed Buildings located within the site date to the late 18th century. The previously rural setting of the heritage asset has been eroded since the mid-20th century by the encroachment of modern residential development and the garage buildings and its conversion for use as a garden centre.

With appropriate mitigation which has been developed into the current plans, for example, the retention and enhancement of views and vistas of the listed building the development would have a negligible impact on all Designated Heritage Assets within the site.”

Flood Risk Assessment:

The submitted Flood Risk Assessment concludes that the site is within Flood Zone 1 and is therefore at a low risk of flooding, with no historical flooding. It adds that an existing sewer that crosses the site would be diverted, with discharges set at a controlled rate. The existing sewer has been CCTV'd and is shown to have no incoming flows, therefore providing less of an issue when diverting.

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 (H27) in the Local Plan. For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

Core Strategy Policies

CS1 'Delivering Rotherham's Spatial Strategy'
CS6 'Meeting the Housing Requirement'
CS7 'Housing Mix and Affordability'
CS14 'Accessible Places and Managing Demand for Travel'
CS19 'Green Infrastructure'
CS20 'Biodiversity and Geodiversity'
CS21 'Landscapes'
CS22 'Green Space'
CS23 'Valuing the Historic Environment'
CS25 'Dealing with Flood Risk'
CS26 'Minerals'
CS27 'Community Health and Safety'
CS28 'Sustainable Design'
CS30 'Low Carbon and Renewable energy generation'
CS32 'Infrastructure delivery and developer contributions'
CS33 'Presumption in Favour of Sustainable Development'

Sites and Policies Document Policies

SP26 'Sustainable Transport for Development'
SP32 'Green Infrastructure and Landscape'
SP33 'Conserving the Natural Environment'
SP35 'Protected and Priority Species'
SP36 'Soil Resources'
SP37 'New and Improvements to Existing Green Space'
SP40 'Listed Buildings'
SP47 'Understanding and Managing Flood Risk and Drainage'
SP52 'Pollution Control'
SP54 'Contaminated and Unstable Land'
SP55 'Design Principles'
SP56 'Car Parking Layout'
SP57 'Sustainable Construction'
SP62 'Safeguarding Community Facilities'
SP64 'Access to Community Facilities'

Other Material Considerations

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.

The National Planning Practice Guidance (NPPG)

The National Design Guide

National Prescribed Space Standards

South Yorkshire Residential Design Guide

Rotherham Adopted Supplementary Planning Documents:

- Air Quality and Emissions
- Promoting Healthy and Equal Communities
- Affordable Housing
- Community Facilities
- Transport Assessments, Travel Plans and Parking Standards
- Biodiversity Net Gain
- Trees
- Development Viability

Publicity

The application has been advertised by way of press and site notice as affecting the setting of the Listed Building on site, as well as by individual neighbour notification letters to adjacent properties. 17 letters of objection have been received, along with 1 in support. The comments raised are summarised below:

- Increased traffic from the development and impact on Doncaster Road adding to congestion. Concerns about highway safety from additional vehicles.
- The proposals should include retail and / or commercial elements rather than just housing. No benefit to the local community.
- Impact on overstretched local services from new residents.
- Objections about the number of houses proposed on the adjacent allocated housing site.
- Concerns about boundary treatment to properties to the rear and how the demolition works could impact on neighbouring properties, including water draining onto neighbouring land. Concerns about what

would happen during the construction process to boundaries which could lead to overlooking.

- Concerns about proximity of new dwellings to neighbouring properties, with potential for overlooking loss of privacy to gardens and noise and disturbance from new dwellings and the proposed car park.
- Concerns that materials and design of the dwellings would harm the setting of the listed building on the site.
- Concerns about Japanese Knotweed adjacent to the site.

A Ward Member has raised objections to the development. The comments received are summarised below:

- Raised concerns about the type of boundary treatment between the development and No. 1 & 2 Chestnut Court as this could lead to potential overlooking to these residents.
- Concerns about noise and disturbance along with air pollution from the car parking area adjacent to the barns.

The amended plans were re-advertised with 12 objections received, though raised no additional concerns to those previously raised.

The applicant has requested the right to speak at the Meeting.

Consultations

RMBC Transportation Infrastructure Service: No objections subject to conditions.

RMBC Affordable Housing Officer: The development is subject to Vacant Building Credit. As the proposed development has a smaller overall floorspace than the existing structures there is no affordable housing requirement.

RMBC Trees and Woodlands: No comments.

RMBC Landscapes: No objections subject to conditions.

RMBC Air Quality: No objections.

RMBC Land Contamination: No objections subject to conditions.

RMBC Environmental Health: No objections subject to conditions.

RMBC Education: No education contribution is required.

RMBC Ecology: No objections subject to conditions.

RMBC Drainage: No objections subject to conditions.

South Yorkshire Mayoral Combined Authority: Request a financial contribution for the removal of existing bus stops and provision of 2 no. new solar powered bus shelters.

South Yorkshire Police Architectural Liaison Officer: No objections but recommend the scheme is built to Secured by Design.

South Yorkshire Archaeological Service: Raise no objections to the proposals subject to a condition requiring further archaeological investigations take place at the site prior to the commencement of development.

Geology (SAGT): No objections.

Sheffield and Rotherham Wildlife Trust: No objections to the revised proposals.

South Yorkshire Bat Group: Part of the old former agricultural buildings on the site is home to the second largest bat roost in South Yorkshire. No objections are raised to the submitted reports and appropriate conditions are recommended.

Health & Safety Executive: No comments to make.

Rotherham NHS CCG: Notes that there is one GP practice alongside a branch surgery covering this postcode area within 1 mile. The local practices are pressured and 72 potential residents would add to already pressured practices. As such, a financial contribution of approximately £28k would be sought.

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 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.

The main considerations in the determination of the application are:

- Principle of the development
- Impact on the Listed Building and general design considerations (including size, scale, form, design and appearance).

- General amenity
- Highway impact
- Air Quality and Ground Contamination
- Ecology
- Land contamination
- Impact on Archaeology
- Other issues raised by objectors

Principle of the development

The site is allocated in the adopted Rotherham Sites and Policies Document for Residential purposes and the site is an existing area of hardstanding and buildings. Accordingly, the site is a brownfield site, and the principle of residential development is acceptable from a land use perspective subject to the developments satisfying other relevant material planning considerations.

The site forms part of the housing allocation H27 in the adopted Sites and Policies Document. The site development guidelines for H27 are for the site to have the capacity of 40 dwellings, and sets out details of how the site should be developed. In particular, it is noted that special consideration should be given to the fact that this site is essential for the enabling development of land to the south (housing allocation H26) and the access should be carefully considered.

The proposal will provide 32 No. dwellings, including from the conversion of the former agricultural buildings. This is 8 units less than the capacity envisaged in the housing allocation. However, the reduced numbers is considered necessary to provide a sufficiently attractive landscaped setting for the Grade II Listed Building.

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

Paragraph 12 of the NPPF states: “*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*”

In this instance the proposal is for residential development of this site is broadly in accordance with the site development guidelines set out in the Housing Allocation H27 and is considered to be acceptable within this residential area.

Impact on the Listed Building and general design considerations (including size, scale, form, design and appearance)

In terms of the impact on the setting of the Grade II Listed Building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, states: "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The following Policies are relevant when looking at the impact on the setting of listed buildings:

Local Plan Policy CS23 'Valuing the Historic Environment' states that: "Rotherham's historic environment will be conserved, enhanced and managed, in accordance with the principles set out below (which includes amongst other things that): d. Proposals will be supported which protect the heritage significance and setting of locally identified heritage assets such as buildings of local architectural or historic interest, locally important archaeological sites and parks and gardens of local interest."

Policy SP40 'Listed Buildings' states that: "Development proposals affecting a Listed Building or its setting will be considered against the following principles:

- a. special regard will be given to the preservation of Listed Buildings and structures. Therefore substantial harm to or demolition of a Listed Building will be strongly resisted;
- b. the significance of a Listed Building can be harmed by unsympathetic extensions or alterations to its appearance, plan form or replacement of windows. Extensions and alterations to a Listed Building will only be considered acceptable where they relate sensitively to the Listed Building and preserve or enhance the special interest and significance;
- c. the Council encourages the development of good quality, contextual design, including any development within the setting of Listed Buildings. Development which has an adverse effect on the setting of Listed Buildings will not be acceptable;
- d. the best use for a Listed Building is usually that for which it was designed, however other uses may be considered acceptable provided they do not harm the significance of the Listed Building. Where significant alterations are required that potentially harm the Listed Building it will be necessary to demonstrate that the original use of the Listed Building is no longer viable or sustainable and that the proposed alterations are necessary to secure the long term survival of the Listed Building;

- e. the Council will support proposals and alterations to Listed Buildings in order to mitigate climate change only where such proposals respect the significance of the Listed Building and do not have an adverse impact on its appearance, character or historic fabric;
- f. the Council will take necessary measures to ensure that neglected Listed Buildings are appropriately repaired and / or reused;
- g. where appropriate, proposals will be supported which enhance or better reveal the significance of a Listed Building or structure.”

Policy SP 43 ‘Conserving and Recording the Historic Environment’ states that: “All proposals affecting a heritage asset will require careful assessment as to the impact and appropriateness of development to ensure that the historic, architectural, natural history, or landscape value of the asset and / or its setting are safeguarded and conserved, and any conflict avoided or minimised in accordance with the policies of this Local Plan.”

The National Planning Policy Framework (NPPF) states at paragraph 200 that: “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

The National Planning Policy Framework (NPPF) states at paragraph 201 that: “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

The National Planning Policy Framework (NPPF) further states at paragraph 205: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

The National Planning Policy Framework (NPPF) further states at paragraph 208 states that: “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm

should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

The new National Design Guide expands upon the guidance within the NPPF and sets out the basis for the consideration of good design.

The Site Development Guidelines state that: “The listed building, along with the unlisted ancillary buildings that contribute to the setting and significance of the listed building, shall be restored and enhanced for positive re-use.” It is welcomed that the proposals include the retention and conversion of the existing buildings on site.

The existing plot consists of a large area of hardstanding and has a number of unattractive and increasingly derelict buildings on the site. The amended proposals for the residential re-development of this site would represent a significant visual improvement for the immediate site and to the setting of the Grade II Listed former Barn.

In terms of demolition, the buildings proposed to be demolished on the site are all late C20th buildings utilitarian in appearance and have no architectural or heritage value. These buildings to be demolished are in two distinct ranges, one that related to the former Foster’s Garden Centre, and the other a petrol filling station in the southern portion of the site.

It is noted that a stone built extension to the former agricultural buildings is also being demolished. Whilst this is an attractive building, utilising high quality materials, it is a modern extension and it’s loss enhances the setting of the former agricultural buildings. No concerns are raised at the loss of any of these buildings and it is welcomed that the designated and un designated heritage assets of the former agricultural buildings are being retained on the site.

The site layout has carefully considered the setting of the Listed Building providing a large open area of public open space in front of the Listed Building, which would significantly enhance its setting from the current arrangement as well as softening the appearance of the development from Doncaster Road.

It is noted that a car parking area would be located to the west of the former agricultural buildings, which is regrettable. However, further to negotiations with the applicant the car parking area has a small landscaped area to the side of the historic buildings which would soften its appearance.

Whilst the presence of the car park would lead to less than substantial harm to the setting of the Listed Building, it would represent a neutral visual impact on the current arrangement which consists of utilitarian buildings. However, it is accepted that for the conversion of these historic buildings to be viable car parking reasonably close to the new dwellings would be required.

It is noted that due to the layout of the site it would not be possible to locate the car parking in the courtyard and this would be the least harmful location for the car parking. Indeed, the Site Development Guidelines for H27 state that: "The courtyard to the north, formed by these buildings, shall be used as curtilage for any future development thereby protecting the setting of this grouping of significant buildings." As such, it is considered that the proposed car parking would represent a public benefit, by enabling this Listed Barn and these historic former agricultural buildings to be brought back into use.

In terms of the general design considerations, the NPPG notes that: "*Development proposals should reflect the requirement for good design set out in national and local policy. Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies and other material considerations.*"

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

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*".

This approach is echoed in National Planning Policy in the NPPF.

Paragraph 131 of the NPPF states: "*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*"

Paragraph 139 states "*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.*"

In addition, CS21 'Landscapes' states new development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes. Furthermore, CS28 'Sustainable Design' indicates that proposals for development should respect and enhance the distinctive features of Rotherham and design should take all opportunities to improve the character and quality of an area and the way it functions.

The South Yorkshire Residential Design aims to provide a robust urban and highway design guidance. It promotes high quality design and development which is sensitive to the context in which it is located.

Further to negotiations with the applicants, the site layout has been amended to provide a strong frontage to the site fronting Doncaster Road. Rows of terraced housing are shown fronting Doncaster Road and onto a 'village green' style public open space area which also allows public views towards the Grade II Listed Building and the former agricultural buildings on the site.

The house types are varied across the site, using materials that reflect the local area and would not harm the setting of the designated and undesignated heritage assets.

The overall amended site layout and materials would greatly enhance the setting of the Grade II Listed Building and the grouping of the former agricultural buildings whilst providing visual interest from Doncaster Road giving character to the new development.

It is considered that the amended plans for the site layout and design of the dwellings across the site, would all have an acceptable appearance and the mix of housing types across the site would provide visual interest and character to the surrounding area.

With regards to the residential conversion of the former agricultural buildings, the applicant has agreed to amend the original design to reduce the number of window openings and to utilise existing window openings on the buildings. The overall design of the conversion is considered to retain the historic agricultural character and appearance of these buildings, including the Grade II Listed Barn and would enhance their current visual appearance which is one of general decay.

The setting of the agricultural buildings and the Grade II Listed Barn would be greatly enhanced by the proposals, through the demolition of the utilitarian C20th buildings attached and the provision of the public open space, forming a soft landscaped setting to these important grouping of designated and undesignated heritage assets.

The layout of the proposed development makes a feature of these buildings within the development itself and from views from Doncaster Road, which it to be greatly welcomed.

Overall, the proposals for the conversion of the Grade II Listed Barn and the undesignated heritage assets of the former agricultural buildings, would preserve the special character and appearance and provide a long term future for these buildings. Furthermore, it is considered reasonable to ensure that these buildings are converted is to require a phasing scheme in the S106 agreement.

General Amenity

The South Yorkshire Residential Design Guide sets out appropriate spacing distances between properties. The SYRDG states that there should be a minimum of 21m between principal elevations or elevations with habitable room windows; and that an elevation with a habitable room window should be a minimum of 10m from a boundary with another property.

In this instance the dwellings have been designed to meet the minimum separation distance, with Plots 14, 15 & 16 set a minimum of 10.4 metres from the boundary with 3 Chestnut Court to the north. The internal spacing also exceeds the minimum set out within the National Standards.

In addition, no windows to habitable rooms in the barn conversions are proposed overlooking the existing housing to the rear.

It is noted that 9 of the inter terrace dwellings (Askham house type) have garden sizes 5 square metres below the 50 square metres recommended by the South Yorkshire Residential Design Guide for 2 bedroom dwellings. Whilst, this is not desirable it is considered that it is acceptable in this instance due to extent of the public open space area included at the front of the site as part of the development.

It is noted that the dwellings formed within the 7 No. barns would not have any private amenity space, though the development is unique and private enclosed garden areas could not be formed to these properties without harming the setting of the Grade II listed Building and the attached historic barns. As such, the provision of a communal garden area for these properties is preferred.

It is noted that neighbouring residents on Chestnut Court have raised concerns about noise and disturbance from the new dwellings and from the car park for the converted former agricultural buildings. It is considered that the presence of dwellings neighbouring these properties is unlikely to harm the amenity of neighbouring residents over and above the previous commercial use. With regards to the car park, the scale of the car park is unlikely to harm the amenity of neighbouring residents or lead to air pollution sufficient to harm residential amenity, and again is much more preferential than the previous commercial uses that took place on the site, with its significant car parking area. The boundary treatment between 1 and 2 Chestnut Court and the development site is unknown as yet as this is where the existing building will be demolished. It is hoped that the existing outside wall of the barn can be retained, to act as the boundary, though this will be

determined during the demolition phase when the condition of the wall will be more clearly established. This would be controlled by recommended planning condition.

The Council's Environmental Health Officer raised concerns about potential noise nuisance for future residents from road noise and noise and disturbance during the construction phase for neighbouring residents, and recommends that suitable conditions relating to noise attenuation measures for future residents and to the submission of a Construction Environmental Management Plan are attached. It is considered reasonable to append these conditions to any planning permission granted in this respect.

Having regard to the above it is considered that the proposed development would not adversely affect the amenity of existing neighbouring residential properties or the amenity of future residents of the proposed development. Accordingly, the scheme would comply with the NPPF, Local Plan Policies and the South Yorkshire Residential Design Guide.

Highway impact

Paragraph 113 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.”*

Local Plan Policy CS14 'Accessible Places and Managing Demand for Travel' states that the Council will work on making places more accessible and that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by, amongst other things, locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel.

Policy SP26 'Sustainable Transport for Development' states that development proposals will be supported where it can be demonstrated that the proposals make adequate arrangements for sustainable transport infrastructure; local traffic circulation, existing parking and servicing arrangements are not adversely affected; the highway network is, or can be made, suitable to cope with traffic generated, during construction and after occupation; and the scheme takes into account good practice guidance.

Policies CS14 and SP26 are supported by paragraphs 114 and 116 of the NPPF.

The Site Development Guidelines state that: *“This site is essential to enabling development of land to the south (housing allocation H26) and a Transportation Assessment will be required to determine any future access to adjoining land as well as considering the development of this smaller site. The Council will not support the development of this site without ensuring that access to H26 can be achieved.”*

The Council's Highways Officer notes that this land is essential to enabling development of land to the south (housing allocation H26) and a Transport Assessment was required to determine any future access to adjoining land, as well as considering the development of this smaller site. The Council will not support the development of this site without ensuring that access to H26 can be achieved.

With regard to the development of this specific site (H27), the proposed internal estate road layout provides vehicle access to the adjacent development site (H26), and the applicant's agent has submitted a draft layout of a potential future scheme demonstrating a signalisation of this proposed access (H27 site) with the A630 Doncaster Road, without the need for any additional land take, i.e. within the constraints of the existing adopted highway.

In terms of traffic impact, the Highways Officer considers that the effect of the proposed development on the adjacent road network is not severe and as such, no mitigation is required. Site Access Visibility at the site access is in accordance with design standards, and a new right turn pocket will be provided to provide a safe waiting area for vehicles, waiting to turn right into the proposed development. In terms of the Site Layout he confirms that the proposed revised site layout Drg No 4204-200 Rev B now conforms with guidance from both the South Yorkshire Residential Design Guide and Manual for Streets. The site has been designed to a 20mph speed limit and the developer has confirmed that they will fund the traffic regulation order and any appropriate signage / road markings associated with it. Accordingly subject to conditions no objections are raised to the proposed layout in a highway context.

It is confirmed that the proposed car parking facilities are in accordance with the Council's minimum residential car parking standards as required by Supplementary Planning Document No 12.

The Highways Officers notes that existing pedestrian, cycling and public transport facilities in the area are good. Local amenities and facilities in this area of Thrybergh are within a reasonable walk / cycle distance of the proposed development and bus services to Rotherham / Doncaster and Rotherham / Ravenfield are also within a reasonable walking distance. The developer will be required to upgrade a nearby pedestrian refuge to the relevant standard, and this will require the developer entering into a s278 legal agreement.

In conclusion, it is considered that the scheme complies with both national guidance and industry standards, it is in accordance with the Local Plan and National Planning Policy Framework in that it promotes sustainable travel / transport, it has safe and suitable access for all highway users, the scheme if implemented will not have an unacceptable impact on highway safety and the residual cumulative impact on the road network will not be severe."

The Council's Highway Officer recommends a number of conditions relating to sustainable travel, improvements to the footway on Doncaster Road and the upgrading of an existing pedestrian refuge in Doncaster Road, as well as a number of additional conditions relating to highway works. It is considered reasonable to append these recommended conditions to any approval granted in this respect.

Air Quality and Emissions

Policy CS30 'Low Carbon & Renewable Energy Generation' states: "Development must seek to reduce carbon dioxide emissions through the inclusion of mitigation measures..." In addition, regard will be had to the guidance contained within Council's adopted SPD 'Air Quality and Emissions'.

The NPPF states at paragraph 112 that amongst other things applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

The SPD notes that there should be 1 charging point per unit (dwelling with dedicated parking) and 1 charging point per space (unallocated parking). Accordingly, details of the type and location of EV Charging Points will be required. This information can either be submitted with the application or can form part of a condition attached to any approval.

A condition has been attached requiring an electric charging point to be provided for each dwellings to encourage more sustainable forms of private transport modes. This includes the provision of EV charging points to the allocated parking spaces 1 per dwelling for the converted farm buildings.

Ecology

Policy SP32 'Green Infrastructure and Landscape' states that: "The Council will require proposals for all new development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets and networks including landscape, proportionate to the scale and impact of the development and to meeting needs of future occupants and users." Such an approach accords with relevant policies and guidance in the Core Strategy and the NPPF.

Policy CS20 'Biodiversity and Geodiversity,' notes in part, that: "The Council will conserve and enhance Rotherham's natural environment and that resources will be protected with priority being given to (amongst others) conserving and enhancing populations of protected and identified priority species by protecting them from harm and disturbance and by promoting recovery of such species populations to meet national and local targets."

Policy SP33 'Conserving and Enhancing the Natural Environment' states, in part, that: "Development should conserve and enhance existing and create new features of biodiversity and geodiversity value," and adds that: "Development will be expected to enhance biodiversity and geodiversity

onsite with the aim of contributing to wider biodiversity and geodiversity delivery including, where appropriate, direct contribution to Ecological Networks, the Green Infrastructure network, Biodiversity Opportunity Areas, Nature Improvement Areas and Living Landscapes.”

The Site Development Guidelines state that: “The impact of any development on the adjoining Local Wildlife Site (Thrybergh Tip LWS079) to the west should be carefully considered. Water resources on the LWS should not be compromised.” In this respect it is noted that there does not appear to be any hydrological features that connect the site to the LWS. As such, there is a negligible risk of the development having an adverse impact on the conservation interest of the LWS, including on the water resource.

The site is previously developed and consists of mainly buildings and hardstanding areas. However, the site contains the second largest bat roost in South Yorkshire in the historic former agricultural buildings on the site. The maternity roost is to be retained (following re-roofing works). This element would be maintained separately by a management company, the details of which are to be set out in the S106 Agreement.

The Council’s Ecologist has provided the following comments:

“The ecological impact assessment considered the bat roost to be of importance at county level due to the size of the roost and a European Protected Species Licence is required.

The applicant will need to apply for a European Protected Species Mitigation Licence from Natural England to permit works. No demolition/construction work of any kind should be carried out until Natural England have approved the licence.

I am satisfied with the suggested mitigation that has been provided as part of the mitigation strategy that the maternity roost is to be retained. The development will need to be carried out in accordance with the supplied mitigation strategy and the following of this should be conditioned.

In line with the comments from South Yorkshire Bat Group, I am pleased with the recommendations to line the new buildings with Bitumen 1F felt rather than a breathable roof membrane. It is likely in the future that the roof areas will degrade and should features allowing access for bats appear then it is possible the colony may exploit this. It is therefore important that bat friendly materials are used in all buildings on-site. Non-bitumen containing materials can result in the death of bats as they become entangled in loose filaments of the material.

I support the suggestion from the ecology report that the room below the roost will not be converted to residential use as this may cause potential conflicts with residents further down the line. It would be beneficial if a formal mechanism could be implemented to ensure that the room (s) beneath the

roost are protected against conversion in the future to residential / amenity use.”

The Council's Ecologist recommends that all ecological measures and/or works shall be carried out in accordance with the details contained in the submitted Ecological Impact Assessment. She also recommends that future residents are informed about the roost, its legal protection, information that the bats will not present a risk to their properties and that monitoring visits will be periodically undertaken. This will hopefully mitigate for any future conflicts.

The Council's Ecologist recommends a number of other conditions, including those relating to the control of lighting close to the converted buildings. It is considered reasonable to append these condition and to remove permitted development rights for external alterations to these converted buildings.

In terms of Biodiversity Net Gain it is noted that the application was submitted before the statutory requirement to provide +10%, though the the applicant has submitted a biodiversity net gain report [Biodiversity Net Gain Report, BWB, January 2024]. This has outlined that the development has an overall net change of +2.03 units, which represents an increase in biodiversity on the site of +753.30%.”

The site currently contains minimal habitat, being predominantly built form and hardstanding, and the development will provide biodiversity enhancements on-site in the form of bat roosting features, bird nesting boxes and hedgehog holes, as well as landscaped areas to be managed by a management company. This is in line with the National Planning Policy Framework Paragraph 180 (d) stating that opportunities to improve biodiversity in and around development should be integrated as part of their design.

Land Contamination

Given the history of the site and its past commercial uses, the land may have been subject to previous and probably unrecorded potentially contaminated land uses. Such land uses have included a petrol filling station, a car wash, a garage/maintenance workshops, a garden centre, potential quarrying and a sewage pumping station.

As such, in view of the previous uses at the site there is a high chance of ground contamination.

The Council's Contaminated Land Officer notes that intrusive site investigations were undertaken between 30 - 31st May 2023 and 14th - 15th June 2023, to determine both the geotechnical and geo-environmental ground conditions across the site and to assess if any significant soil and groundwater contamination had occurred associated with the past historical uses of the site. This demonstrated that *contaminated soils will likely require excavation and removal or treatment, and that a detailed remediation method statement will be required for the site. She also noted that no significant ground water contamination has been encountered during the initial round of*

ground investigation works. However, further groundwater monitoring is recommended.

The Council's Contaminated Land Officer notes that a former well in the southwest of the site has been annotated on historical maps. It is not known if the well has been decommissioned appropriately and further investigation should be undertaken to assess if remedial treatment will be required. Any new dwelling to be built above or in the immediate vicinity of the well will require design of plot specific foundation by a suitably qualified structural engineer.

The Council's Contaminated Land Officer recommends a number of conditions to deal with the potential for contaminated land at this site. It is considered reasonable to append these conditions to any planning permission granted in this respect.

Impact on Archaeology

The Site Development Guidelines state that: "Development proposals will need to be supported with a Heritage Statement for Archaeology prepared in line with the requirements for site classification 1 highlighted yellow in Table 17 'Heritage Statement for Archaeology Requirements'."

The Council's Archaeologist has noted that the ground investigation report for the site has demonstrated that considerable change has taken place over time to ground levels across the site. As such, these past groundworks have reduced the archaeological sensitivity of the site.

Due to these previous ground works having taken place the archaeological impact will be less than substantial and could be offset by a recording condition both for the excavation and the building itself, prior to conversion.

The South Yorkshire Archaeology Service has recommended a suitable condition relating to archaeological recording of the building and the site itself. It is considered reasonable to append this condition to any planning permission granted in this respect.

Other issues raised by objectors

It is noted that a number of neighbouring residents raised concerns about the scale of development, not just on this site but on the adjacent allocated housing site H26. The proposed development on site (at 32) is below the target of 40 identified in the adopted Local Plan, and the potential impact of development on the adjoining site is not material to this application which is looking at this allocated housing site H27 in isolation.

Neighbouring residents raised concerns that the development would lead to the loss of local retail facilities and that the site should include local shops and community facilities rather than housing, in particular in the former agricultural buildings. Whilst this is noted, it is not considered reasonable that the Council

could require the applicant to provide these facilities on this site allocated for housing. However, it is noted that there are a number of retail units and facilities, including a public house and a café, opposite the site at Deer Park Farm.

Concerns were raised that local services including doctors and schools were oversubscribed, and this development would only lead to extra pressure on already stretched local services. The Council's Education Department have confirmed that the local schools are not oversubscribed and they are not seeking a contribution for educational provision from this development. The Health Service state that there is one GP practice alongside a branch surgery covering this postcode area within 1 mile. The local practices are pressured and 72 potential residents would add to already pressured practices. As such, a financial contribution of approximately £28k would be sought.

Neighbouring residents adjacent to the site on Chestnut Court have raised concerns about the impact on their properties and boundaries from the conversion of the former agricultural buildings and the demolition of the former garden centre buildings at the site. Whilst this is noted, it is considered that any damage to property is a civil matter and is not a material planning consideration. Suitable boundary treatment would be provided before the development is brought into use, with a 2.4 metre high timber screen fence provided along the boundaries with Nos. 1 – 3 Chestnut Court.

The issue of Japanese knotweed, which may be present on adjacent land, has been addressed by way of an Informative.

Conclusion

It is concluded that notwithstanding the objections received, the application represents an acceptable form of development on land allocated for Residential purposes, and is of an appropriate design that would not adversely affect the character or appearance of the locality. Furthermore, subject to conditions, the proposal would not adversely affect the amenity of existing and proposed residents, would not result in highway safety issues or drainage, ecological or environmental issues. The application would comply with the relevant national and local planning policies and guidance, and is therefore recommended for approval subject to the signing of the S106 Legal Agreement and the following 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 7, 16, 23, 28, 31 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 7, 16, 23, 28,31 are fundamental to the acceptability of the development and the nature of the further information required to satisfy these conditions is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.'

General

01

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

Reason

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

02

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

List of plans

4204-200	Site Layout Rev C Proposed House type Brochure – July 2023 – Frist issue
4153/208.18	0.45 Knee Rail Fence Detail
2101-208.04	1.2 Post and Rail Detail
2101-208.02	1.8 Screen Fence Detail
2101/208.01	1.8 Wall and Pier Fence Detail
2101/208.16	2.4 Screen Fence
4153/208.04	2.4m stone Pier and Panel Wall
4143/208.13	Stone Wall
4153/208.00	Existing Stone Wall Frontage

Conversion

4204-294	Proposed Frist Floor Plans
4204-295	Proposed Elevations 1 – 5
4204-296	Proposed Elevations 6 – 7
4204-290	Existing Ground Floor Plans Rev A
4204-291	Existing First Floor Plans Rev A
4204-292	Existing Elevations Rev A
4204-293	Proposed Ground Floor Plans Rev A

Reports

BWB Air Quality Assessment January 2024 Rev 2.0

ENS Noise Impact Assessment 05 January 2024 Final
BWB Arboricultural Impact Assessment January 2024
MAP Archaeology and Heritage Impact Assessment VA210723
BWB Ecological Impact Assessment January 2024 P02
BNG Metric January 2024
BWB BNG Assessment January 2024 P02
AMA Flood Risk Assessment January 2024 Rev 2
Lithos Geoenvironmental Appraisal 3954/2A
Lithos Remediation Strategy 3954/3A
TPS Transport Statement July 2023
TPS Proposed RTGI Arrangement D-1001 Rev C

Reason

To define the permission and for the avoidance of doubt.

03

Prior to works commencing above ground level for the new build, and prior to the commencement of the conversion of the existing buildings, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to the Local Planning Authority or samples of the materials shall be left on site, and the development shall thereafter be carried out in accordance with the approved details/samples.

Reason

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

04

Prior to occupation of the dwellings hereby approved, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:-

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
- The extent of any changes to existing ground levels, where these are proposed.
- Any constraints in the form of existing or proposed site services, or visibility requirements.
- Areas of structural and ornamental planting that are to be carried out.
- The positions, design, materials and type of any boundary treatment to be erected.
- A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- A written specification for ground preparation and soft landscape works.
- The programme for implementation.

- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme within a timescale agreed, in writing, by the Local Planning Authority.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with Policy SP32 Green Infrastructure and Landscape.

Highways

05

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 and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity.

06

Prior to the occupation of the dwellings hereby approved, details of the proposed footway improvements as shown in draft form on Drg No 23045-LE-01-ZZ-DR-D-0001 Rev P04 shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of a dwelling.

Reason

In the interests of pedestrian safety.

07

Prior to the commencement of works a Construction Traffic and Environment Management Plan shall be submitted to and approved in writing by the Council and the approved Plan shall be adhered to throughout the construction period.

The Plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- Noise & vibration arising from all construction and demolition related activities - Contractors and site staff are expected to use the best practical means to minimise noise on site. Regard shall be had to the guidance detailed in BS5228 2009: 'Noise and Vibration Control on Construction Sites'.
- Dust arising from all construction and demolition related activities - Contractors and site staff are expected to use the best practical means to minimise dust on site. Regard shall be had to the guidance detailed in Institute of Air Quality Management- Guidance of the assessment of dust from demolition and construction 2014.
- Artificial lighting used in connection with all construction related activities and security of the construction site - Contractors and site staff are expected to use the best practical means to minimise light nuisance on site. Regard shall be had to the guidance detailed in the Institute of Lighting Professionals - Guidance Note 01/21 – Reduction of Obtrusive Light.

The Plan to be submitted shall be in report format and as a minimum shall include the following details as specified in the subheadings below:

- Program and Phasing Details
 - Site layout
 - Operational hours
 - Expected duration of demolition and construction work phases
- Site Management
 - Contact details of site manager for public liaison purposes
 - Complaints procedure
 - Roles and responsibilities
- Routes for Construction Traffic and on site car parking
 - Routes to be used for access onto site and egress
 - One way systems
 - Haul routes (onsite and delivery)
 - On site car parking / manoeuvring facilities for delivery vehicles and workers
- Site Access, Storage and Movement of Materials
 - Delivery access point details
 - Location details of storage areas
 - Delivery times of materials and plant
- Dust, Debris and Mud
 - Screening and hoarding
 - Preventative measures
 - Dust suppression measures -General and machinery
 - Wheel wash facilities
 - Road sweeping facilities

- Covering of dusty stockpiles
- Vehicles carrying dusty loads
- Dust monitoring
- Boundary checks
- Monitoring of weather including wind speed and direction, dry conditions etc

- Noise and Vibration Control
 - Silencing of vehicles, plant and machinery
 - Mitigation measures for noisy operations
 - Operational hours
 - One way systems
 - Vehicle reverse alarms
 - Leaflet drops to noise sensitive premises

- Artificial Lighting
 - Hours of operation of the lighting
 - Location and specification of all of the luminaires
 - Level of maintained average horizontal illuminance for the areas that needs to be illuminated.
 - Predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity.
 - Measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site.

- Waste Management
 - Waste storage
 - Waste collection
 - Recycling
 - Waste removal

Reason:

To safeguard the amenities of the occupiers of nearby properties in accordance with SP52 'Control of Pollution.'

08

When the proposed access has been brought into use, the existing access marked on the submitted plan shall be permanently closed and the footway reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason

In the interests of highway and pedestrian safety.

09

Prior to the occupation of the dwellings hereby approved, road sections, constructional and drainage details shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the development is brought into use, or as otherwise agreed in writing with the Local Planning Authority.

Reason

No details having been submitted they are reserved for approval.

10

Before the conversion element is brought into use the communal car parking area shown on the approved plan shall be provided, marked out and thereafter maintained for car parking.

Reason

To ensure the provision of satisfactory parking spaces and to avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

11

Prior to the first dwelling being occupied a Travel Pack should be produced in the form of an introduction pack to the area with information on buses, trains, cycle and walking routes, local facilities such as schools, doctor's surgeries and other local facilities (shops, parks etc.) and submitted to and approved by the Local Planning Authority. The approved Travel Pack shall be provided for each new resident on first occupation of any dwelling.

Reason

To promote sustainable travel choices.

Air Quality and Emissions

12

Prior to the occupation of dwellings hereby approved, details of vehicle charging points (1 per dwelling) shall be submitted to and approved by the local planning authority. These details shall include vehicle charging points located in allocated parking spaces in the car parking area to serve the 7 no. dwellings converted out of the former agricultural buildings. The dwellings shall not be occupied until the charging points have been provided, and they shall thereafter be retained.

Reason

In the interests of air quality and to provide appropriate facilities for electric vehicles.

Land Contamination

13

Following removal of all below ground structures and demolition of existing above ground structures and prior to above ground works commencing, further intrusive site investigations shall be undertaken to fully determine the geotechnical and geo-environmental constraints at the site complete with ground gas monitoring. The investigation and subsequent risk assessment must be undertaken in accordance with section 15.9 of the report entitled 'Geo-Environmental Appraisal – Land at Fosters Garden Centre, Rotherham' -

prepared by Lithos Consulting Ltd, dated July 2023, Report no. 3954/2, by competent persons and a written report of the findings shall be submitted to and approved by the Local Planning Authority.

The above shall be conducted in accordance with the new guidance document 'Land Contamination Risk Management' (October 2020) and predecessor guidance 'Model Procedures for the Management of Land Contamination, CLR 11 (Environment Agency, 2004) and BS10175:2011+A2 2017 (BSI, 2017)

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

14

Due to the presence of made ground on site, foundation design will need to be undertaken in accordance with the recommendations made within section 13.4 of the report entitled 'Geo-Environmental Appraisal – Land at Fosters Garden Centre, Rotherham' - prepared by Lithos Consulting Ltd, dated July 2023, Report no. 3954/2

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

15

Subject to the findings of the investigation and subsequent risk assessment, required by Condition 13 and prior to above ground works commencing, a Remediation Method Statement shall be submitted to and approved by the Local Planning Authority prior to any remediation works commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation. The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

16

Prior to the commencement of development, a Detailed Design Report for Gas Mitigation Measures will be provided for approval by the Local Planning Authority, and shall provide details of the identified gas protection measures required, complete with drawings to show how the gas protection measures

will fit into the overall building designs. The development shall proceed in accordance with the approved details.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

17

Post construction and prior to occupation of the dwellings hereby approved, a Gas Verification Report is to be provided for each building to confirm that the measures constructed/installed meet the required standards. Inspection reports for each building will be submitted and the dwellings shall not be occupied until the Gas Verification Report is approved by the Local Planning Authority.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

18

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.

19

If virgin material, subsoil/topsoil materials are required to be imported to site for remedial works, 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 will not present a risk to future users of the site and the environment.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

20

Due to elevated sulphate concentrations being detected, any buried concrete to be used on site shall be designed to a design sulphate classification of DS-2 for made ground, with a corresponding ACEC class of AC-2. The design sulphate classification used will need to be evidenced.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

21

Suitable water supply pipes will need to be specified for the site which are considered capable of resisting chemical attack from residual contaminants remaining within the made ground. The details of these water supply pipes shall be submitted to and approved in writing with the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

22

Following completion of any remedial works a Validation Report will be forwarded to this Local Planning Authority for review and comment. The Validation Report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site. The dwellings shall not be occupied until such time as all validation data has been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure the safe occupation of the site in accordance with Policy SP54 of the Rotherham Local Plan.

Drainage

23

The details of the foul and surface water drainage shall be carried out in accordance with the approved FRA and Drainage strategy report no. 20906-FRADS-003

Reason

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin and in accordance with Policy CS25 of the Local Plan.

24

Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings

shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin and in accordance with Policy CS25 of the Local Plan.

Ecology

25

All residents of the new dwellings in the converted barns shall be given an information pack regarding the presence of the bat roost, the legal protection the bat roost is afforded, information regarding bat roosts that bats will not present a risk to their properties and the periodical monitoring visits that will be undertaken. This information pack shall be agreed with the Local Planning Authority in writing with the agreed details disseminated to each household in the converted barns upon first occupation.

Reason

In the interest of ecology.

26

Notwithstanding the submitted details, prior to the occupation of the converted dwellings Plots 1 to 7 of the conversion, details of external lighting on the converted buildings and within the communal garden and parking areas, as well as the communal greenspace area to the south, shall be submitted to and approved in writing by the Local Planning Authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bats or other species using key corridors, foraging habitat features or accessing roost sites. The details shall include, but not limited to, the following:

- a) A drawing showing sensitive areas and/or dark corridor safeguarding areas.
- b) Technical description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate.
- c) A description of the luminosity of lights and their light colour.
- d) A drawing(s) showing the location and where appropriate the elevation and height of the light fixings.
- e) Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).
- f) Lighting contour plans both horizontal and vertical where appropriate and taking into account hard landscaping, etc.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed without the prior approval in writing of the Local Planning Authority.

Reason

To protect species protected by law.

27

No removal of hedgerows, trees or shrubs or buildings shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason

To protect species protected by law.

28

Prior to the commencement of development, a Biodiversity Enhancement & Management Plans (BEMPs) shall have been submitted to and approved in writing by the Local Planning Authority. The Plans shall provide a:

- i) Description and evaluation of features to be managed and enhanced, including:-
 - a) Description of new landscape planting incorporating native plant species.
 - b) Gaps of suitable dimensions (130mmx 130mm) shall be provided at the foot of permanent perimeter and boundary fences at selected points to permit the movement of hedgehogs around the site post construction.
 - c) To ensure that holes are kept open 'Hedgehog Highway' signage shall be provided (sourced by Peoples Trust for Endangered Species and/or British Hedgehog Preservation Society) and secured above the holes.
 - d) The location and number of bat roosting features to be included within the new residential properties
 - e) The location and number of bird nest boxes, including Swift bricks, to be integrated into the new residential properties.
- ii) Extent and location/area of proposed enhancement works on appropriate scale maps and plans.
- iii) Aims and Objectives of management.
- iv) Appropriate Management Actions for achieving Aims and Objectives.
- v) An annual work programme (to cover an initial 5 year period).

For each of the first 5 years of the Plans, a progress report shall be sent to the Local Planning Authority reporting on progress of the annual work programme

and confirmation of required Actions for the next 12 month period. The approved Plans will be implemented in accordance with the approved details.

Reason

To ensure no net loss in biodiversity across the sites.

Noise Attenuation and Amenity

29

The scheme of sound attenuation set out in the approved Noise Impact Assessment, including glazing, trickle ventilation, mechanical ventilation and boundary walls/fencing (the latter subject to approval from a design and appearance perspective) shall be provided and installed in accordance with the criteria as specified in Section 5.2, Section 5.3 and Appendix 3 of the Noise Impact Assessment undertaken by Environmental Noise Solutions Limited, dated 5 January 2024 prior to the occupation of the dwellings hereby approved.

Reason

To safeguard the amenities of future occupiers in accordance Policy SP52 'Control of Pollution.'

Other Conditions

30

Notwithstanding the provisions Schedule 2, Part 1, and Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), Plots 1 to 7 of the conversion hereby approved, shall have no further extensions or external alterations including external lighting to the buildings shall be carried out, or outbuildings or boundary treatment erected [all other than those expressly authorised by this permission] without the prior permission of the Local Planning Authority.

Reason

To protect the setting of the Grade II Listed Building in accordance Policy SP40 'Listed Buildings.'

31 Archaeology

Part A (pre-commencement)

No development, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of

Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

- The programme and method of site investigation and recording.
- The requirement to seek preservation in situ of identified features of importance.

- The programme for post-investigation assessment.
- The provision to be made for analysis and reporting.
- The provision to be made for publication and dissemination of the results.
- The provision to be made for deposition of the archive created.
- Nomination of a competent person/persons or organisation to undertake the works.
- The timetable for completion of all site investigation and post-investigation works.

Part B (pre-occupation/use)

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

Reason:

To ensure that any archaeological remains present, whether buried or part of a standing building, are investigated and a proper understanding of their nature, date, extent and significance gained, before those remains are damaged or destroyed and that knowledge gained is then disseminated.

32

All roof lights hereby approved on the converted buildings shall be conservation style unless otherwise agreed in writing with the Local Planning Authority.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity in accordance with Local Plan Policies SP40 Listed Buildings, SP55 Design Principles, CS23 'Valuing the Historic Environment' and CS28 'Sustainable Design.'

33

Prior to the development of the converted buildings being brought into use, details of the surface treatment of all shared space areas, including the internal courtyard, paths around the building and the allocated parking and turning areas, shall be submitted for the approval of the Local Planning Authority. The approved details shall be completed prior to the occupation of the first dwellings on the site and shall be retained and maintained for the lifetime of the development.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity in accordance with Local Plan Policies SP40 Listed Buildings, SP55 Design Principles, CS23 'Valuing the Historic Environment' and CS28 'Sustainable Design.'

34

Prior to the conversion element being brought into use, details of the external rainwater goods at a scale of 1:10 shall be submitted to and approved in writing with the Local Planning Authority. The rainwater goods shall be cast iron or cast aluminium and painted black with the gutters supported on rise and fall brackets. The development shall proceed in accordance with the approved details.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity in accordance with Local Plan Policies SP40 Listed Buildings, SP55 Design Principles, CS23 'Valuing the Historic Environment' and CS28 'Sustainable Design.'

35

All windows and doors on the converted buildings shall be constructed of natural timber or aluminium, the details of which shall be submitted to and approved in writing with the Local Planning Authority. These details shall include their colour treatment. The development shall proceed in accordance with the approved details.

Reason

To protect the special character and appearance of the Grade II Listed Building and the undesignated heritage assets in accordance with Local Plan Policies SP40 Listed Buildings, SP55 Design Principles, CS23 'Valuing the Historic Environment' and CS28 'Sustainable Design.'

Informatives

01

The planning permission is subject to a Legal Agreement (Obligation) under Section 106 of the Town and Country Planning Act 1990. The S106 Agreement is legally binding and is registered as a Local Land Charge. It is normally enforceable against the people entering into the agreement and any subsequent owner of the site.

02

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

03

Drainage Informatives:

In order to discharge Drainage Conditions, the applicant is advised that they would be expected to submit information including but not limited to the following:

Surface water drainage plans should include the following:

Rainwater pipes, gullies and drainage channels including cover levels.

- *Inspection chambers, manholes and silt traps including cover and invert levels.*
- *Pipe sizes, pipe materials, gradients and flow directions.*
- *Soakaways, including size and material.*
- *Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- *Site ground levels and finished floor levels*

Surface Water Discharge From Brownfield Site:

There should be no increase in surface water discharge from the site to existing sewers / watercourses. On site surface water attenuation will therefore be required if drained areas to existing sewers / watercourses are to be increased.

A 30% net reduction to existing peak discharge (up to a 1/100 yr storm + 40% CC) will be required if the site is being re-developed. A full justification will be required where the development cannot achieve the 30% betterment on the existing run-off rate.

On Site Surface Water Management:

The site is required to accommodate rainfall volumes up to 1 in 100 year return period (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas etc. to demonstrate how the 100 year + 40% CC rainfall volumes will be controlled and accommodated.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within highway.

Guidance on flood pathways can be found in BS EN 752.

Any SuDS/Drainage system installed must not be at the detriment to the receiving watercourse or ground (infiltration), so managing the quality of the run-off to must be incorporated into any design in accordance with CIRIA 753 The SuDS Manual

The design of flow control devices should, wherever practicable, include the following features:

- a) *Flow controls may be static (such as vortex flow controls or fixed orifice plates) or variable (such as pistons or slide valves);*
- b) *Controls should have a minimum opening size of 100 mm chamber, or equivalent;*
- c) *A bypass should be included with a surface operated penstock or valve; and*
- d) *Access should be provided to the upstream and downstream sections of a flow control device to allow maintenance.*

For major developments, the LPA is required to ensure there are suitable ongoing maintenance arrangements over the lifetime of the development.

Options for SuDS adoption and maintenance include:

- a) Adoption by Water and Sewerage Company (WSC) - The developer may enter into a section 104 agreement (Water Industry Act 1991) with the local WSC.
- b) Private Maintenance Arrangement.

Provide all drainage management and maintenance plans for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime (e.g. signed Section 104 agreement).

04

Ecology Informative:

Guidance regarding lighting issues can be found in the 'Guidance Note 08/23: Bats and Artificial Lighting At Night' Institute of Lighting Professionals, 2023.

05

Adjacent to the application site there is Japanese knotweed. This is a highly invasive plant, the treatment of which must comply with Section 14(2) of the Wildlife and Countryside Act (as amended) 1981 and sections 33 and 34 of the Environmental Protection Act 1990. It is advised that the Council's Neighbourhoods Service (Tel: 01709 823172) or the Environment Agency (Tel: 0113 2440191) is contacted to provide advice on how it should be treated and / or disposed of.

The Code of Practice for the Management, Destruction and Disposal of Japanese Knotweed on development sites can be found on the Environment Agency website:

www.environment-agency.gov.uk

06

Please note that in order to discharge Condition 06, relating to the provision of the footway. This will require the developer to enter into a S278 agreement with the Council, the applicant should contact david.phillips@rotherham.gov.uk in this regard).

POSITIVE AND PROACTIVE STATEMENT

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

Application Number	RB2024/1070 https://rotherham.planportal.co.uk/?id=RB2024/1070
Proposal and Location	Application to vary conditions 2 & 6 (now conditions 1 & 3) (seasonal closure of 5 parking spaces to create an outdoor terrace) imposed by Planning Application RB2015/0777 at The Cutler, Woodsetts Road, North Anston
Recommendation	Granted Conditionally

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



Site Description & Location

The site comprises of The Cutler public house and an attached Tesco local convenience store, along with areas of hardstanding fronting both Woodsetts Road and Nursery Road.

The site is located close to the local centre of North Anston which is across the road from the site on Quarry Lane.

Immediately surrounding the area are residential properties with a bungalow immediately to the north (1 Nursery Road) and a separate property adjacent

to the east (1a Woodsetts Road). A further property is located across Woodsetts Road to the south (57 Mulberry Road).

Background

There is considerable planning history to the site in relation to it being a public house. The most relevant planning applications are as follows:

RB2014/0252: Single storey side & rear extension with external alterations and associated works - GRANTED CONDITIONALLY 25/04/14

RB2014/0582: Non-material amendment to application RB2014/0252 for removal of Condition 06 - GRANTED 29/05/14

RB2015/0777: Single storey side & rear extension to existing building to form A1 retail unit including ATM and associated works – REFUSED 22/06/2018 for the following reason:

“By disconnecting a licensed beer garden area from the adjacent public house, the proposed layout of the store would fail to secure a safe and secure environment and would fail to minimise the opportunities for anti-social behaviour, which could lead to harm to the amenity of neighbouring residents contrary to Core Strategy Policy CS28 ‘Sustainable Design’ and emerging Sites and Policy Document Policy SP12 ‘Development in Residential Areas’.”

This application was subsequently ALLOWED on Appeal on 04/05/2020, wherein the Inspector imposed a number of conditions.

RB2020/0723: Display of 1 no. externally illuminated sign and 2 no. non-illuminated signs – GRANTED CONDITIONALLY 06/07/2020

RB2020/0995: Application to discharge conditions 03, 04, 05, 07 & 08 imposed by RB2015/0777 – GRANTED 07/08/2020

RB2020/1665: Application to discharge condition 3 imposed by RB2015/0777 – GRANTED 21/10/2020

RB2020/2010: Application to discharge condition 6 imposed by RB2015/0777 – Granted 04/01/2021

Proposal

The application is seeking permission to vary conditions 2 (approved plans) & 6 (car parking layout) imposed by RB2015/0777.

RB2015/0777 was allowed on appeal by the Planning Inspectorate and related to an extension to the existing public house to create a separate retail unit. The Inspector imposed a number of conditions on approval. All

conditions have been previously discharged and the unit has been operational as a Tesco Express since mid-2021.

This current application seeks to amend the approved plans and the car parking layout to allow for the temporary, seasonal closure of 5 parking spaces to create a terrace for the public house.

The applicant has indicated that it is their intention for an area towards the Nursery Road frontage to be used as a 'Summer' outdoor terrace area between the dates of 1st April and 30th September annually.

The 'Summer' terrace area is shown on the submitted drawings to have 5 sets of table and chairs enclosed by a number of timber planters on casters.

A zebra crossing within the site is proposed to allow patrons access into and out of the public house and two speed humps are proposed before and after the crossing to slow traffic.

The submitted plans show the existing 'Winter' terrace area to the side of the public house and this is proposed to only be used between 1st October and 31st March annually.

The applicant originally indicated that the outdoor area was to be used within the hours of the premises licence for the whole site which is 10am to Midnight, 7 days a week. This has since been amended to 10am to 10pm.

The applicant has stated the reasoning for the new 'Summer' terrace area, which are:

- The proposed 'Summer' terrace is closer to the main entrance than the current 'Winter' location.
- The terrace has better visibility from the main road therefore enhancing the pub's visual appeal.
- The 'Summer' terrace is further away from residential properties on Woodsetts Road.
- The sunlight is not obstructed by the pub building at any time during the day.

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

Parking Strategy

The parking survey observed a total of 90 observations made across the busiest periods of the week, Thursday, Friday and Saturday. From the observations, the 99th percentile car park accumulation is 22 cars (22.2) cars parked.

The observations show that less than 22 cars were parked on site for between 28 and 29 of the 30 observations made in each week.

A single observation was made of 24 cars parked, at 17:00 on Friday the 17th May.

The only observed exceedance of the proposed number of car parking spaces occurred once, for a total of two cars. At any other time during the observations all cars could have been accommodated within the car park.

Due to the relatively high frequency turnover of car parking spaces for a small-format foodstore, cars which arrived during this single short period could have either waited within the site for a space to become free, retimed their journey to the site or potentially sought to park on-street local to the site.

The survey concludes that *“It is not considered that a highly infrequent (one percentile) potential occurrence of the parking on-site being exceeded as a result of the development proposals could reasonable be assessed as being a severe residual cumulative impact.”*

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):

CS14 ‘Accessible Places’
CS27 ‘Community Health and Safety’
CS28 ‘Sustainable Design’
SP26 ‘Sustainable Transport for Development’
SP52 ‘Pollution Control’
SP55 ‘Design Principles’
SP56 ‘Car Parking Layout’

Other Material Considerations

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. 7 letters of representation have been received from individual addresses.

The issues raised by local residents are summarised below:

- Conditions 2 and 6 were made by the Planning Inspector at the appeal hearing. The Inspector also stated that a car park layout should be agreed by the LA with the two conditions remaining in place whilst ever the store was open.
- Traffic density has increased significantly in the environs since the original application so any reductions in car parking would be highly unlikely.
- The initial traffic survey (May 2014) which indicated that a minimum 28 spaces were needed to accept the traffic density and then Highways officer stated that an application with fewer places was likely to be refused.
- The new traffic survey (by DPI) is from midday only. The original Mouchel report is for the full opening time of the store hour by hour, why is this acceptable?
- In early summer 2021 a beer garden was created with benches and flower tubs in part of the south car park contrary to the Planning Inspectors condition. Enforcement ignored for long periods but in October 2021 a Breach of Condition notice was issued (for obstruction of the disabled bays). The tables were reduced and rearranged so as to not to obstruct the disabled bays.
- During this period (covid) many pubs were converting car parks to eating/drinking areas for which they had to apply for planning permission for change of use. This was brought to the LA attention after a FOI request. They responded that this was not required at this site as the drinking area was not on parking spaces.
- The proposed summer drinking is against the west wall which requires customers to walk across the moving traffic area to enter or leave the pub. Not once can I recall any pub that does not have direct access from the drinking area directly into the pubs entrance without the necessity to check for moving traffic (by customers with unknown sobriety). Nearly 1 car per minute at busy time according to the Mouchel report). This again does not appear to have been considered in the application.
- The proposal will result in noise impact on neighbouring properties.
- Parking is a problem currently and removing 5 spaces will cause mayhem.
- The location of the seasonal seating; speed bumps means that pub customers must cross traffic to get into the pub, and the path to the pubs entrance will be undulating with the speed bumps. This is likely to lead to more accidents.

- The addition of the seasonal seating and the loss of parking spaces will also limit the turning area for the cars using the site.
- This is a speculative application and there is no written evidence that reducing the number of car parking spaces outside the Tesco store is in anyway beneficial to the local community. The applicant has not provided any evidence for safeguarding any increased pedestrian footfall.
- The proposal also ignores the increases in noise, litter and anti-social behaviour to the detriment of close neighbours to the site.
- The existing junction between The Baulk and Woodsetts Rd. is a traffic hazard, and the applicant has not provided any evidence that reducing the number of parking spaces is in anyway beneficial to the proposal.
- Where is the supporting evidence to show the need for extra seating or the results of a survey to validate this application?
- The site plans are incorrect.
- The winter terrace garden is not on the original plan.
- The parking survey is incorrect.
- Deliveries to the site are subject to a store delivery plan (SDP) which Tesco issue to its staff. This has never been adhered to. It includes the placement and removal of cones on 5 bays in front of the old beer garden. Enforcement have been provided with examples of numerous breaches including a 15+minute video. Enforcement officers claim to have made representations to Tesco to enforce SDP, but it never happens.
- To install a summer drinking area immediately outside the Cutler without any evidence that it will be monitored seems to go against licensing concerns and can only be detrimental to the community.
- The inspectorate clearly states that the movements between pedestrians and vehicles should be minimised. The proposed site of the drinking area would increase movement from the Pub entrance and non-drinking pedestrians as well as closer contact with vehicles.
- The inspectorate noted issues with increased noise and an outside beer garden would add to this and caused disturbance to residents adjacent to and opposite the proposed site of the beer drinking area.
- The decision of the Inspector was that 24 car parking spaces plus 3 disabled, making 27 in total to prevent over spill onto surrounding roads and off-street car parking. To decrease this number goes against the recommendations.
- 3 bays are coned off daily outside Tesco for delivery and as only one delivery can take place at any time other delivery vehicles are known to park up on the surrounding roads. The 2 disabled bays East of the Cutler Pub are it would appear regularly used for overnight parking.
- I note that environment health has concerns regarding the noise generated by customers as do I. I would also argue that being exposed to fumes from passing vehicles, surely not good for their health.
- My personal concerns are about safety having been involved as a pedestrian in a near miss as I crossed the entrance into the car park

from Woodsetts Road. To site a beer garden on the corner of a notoriously dangerous site is only going to make matters worse.

- The resident opposite this entrance has had boundary wall damaged and his garage wall partially demolished as a result of an RTA and there have been several unrecorded minor shunts since the site was extended to include Tesco in 2019.
- It should also be noted that the designated pedestrian route will be obstructed if the 2 proposed Speed humps are introduced thus making it difficult and dangerous for pedestrians to access both the Cutler and Tesco due to the uneven ground.
- This proposal seems to be an attempt to formalise the previous efforts to restrict access to the car park, and egress onto Woodsetts Road by Tesco customers (using temporary barriers and a fast food caravan). The original planning application was specific regarding the number of spaces required for a reason, and the proposals now go against this.
- They will cause additional traffic congestion and heighten risk of accident both within the reduced Tesco parking area, but also on Nursery Road (where Tesco entrance and now exit are located) close to busy junctions with Woodsetts Road, Quarry Lane and Back Lane.
- These are particularly busy at peak times, serving as bus route and providing access to a number of local schools.
- In terms of egress onto Woodsetts Road, this is clearly likely to be difficult given location of bench seating and whilst speed bumps are proposed, the location itself looks unsafe if vehicles can pass both ways.
- The new site plan is still flawed with tables encroaching into one of the bays.
- No evidence has been provided to justify the need to double the drinking area.
- No reference is made to change of use of the car park in any documents
- The pre consultation was woefully inadequate, the Local Authority is ignoring advise from its own Information Management Team and objectors have been disenfranchised.
- The seating area is not required as revealed in the Environmental Health comments.
- Land ownership - No site ownership details have been provided within the planning application submission.
- As the application has changed should alternatives not be considered

2 Right to Speak Requests have been received at the time of writing the report from local residents.

Consultations

RMBC Transportation Infrastructure Service: No objections subject to conditions.

RMBC Environmental Health: No objections subject to conditions.

Appraisal

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

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

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

The application is seeking permission to vary conditions 2 (approved plans) & 6 (car parking layout) imposed by RB2015/0777.

RB2015/0777 was allowed on appeal by the Planning Inspectorate and related to an extension to the existing public house to create a retail unit. The Inspector imposed a number of conditions on approval and all conditions have been previously discharged and the unit has been operational as a Tesco Express since mid-2021.

The current application is seeking to amend the approved plans and the car parking layout to allow for the temporary, seasonal closure of 5 parking spaces to create an outdoor terrace for the public house.

The applicant has indicated that it is their intention for an area towards the Nursery Road frontage to be used a 'Summer' terrace area between the dates of 1st April and 30th September annually.

The 'Summer' terrace area is shown on the submitted drawings to have 5 sets of table and chairs enclosed by a number of timber planters on casters.

The submitted plans show the existing 'Winter' terrace area to the side of the public house and this is proposed to only be used between 1st October and 31st March annually.

The proposal, if approved would result in the list of approved plans set out in condition 2 of RB2015/0777 being amended to reflect the proposed changes; condition 6 would also be amended to reflect the changes proposed.

The main considerations in the determination of the application are considered to be the impact of the summer terrace area on highways, due to the reduction in parking spaces throughout the period of 1st April to 30th September, and the impact of the summer terrace area on the amenity of local residents, in respect of noise and general disturbance.

Highway matters

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.”*

CS14 ‘Accessible Places and Managing Demand for Travel’ states the Council will work on making places more accessible and that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by, amongst other things, locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel.

SP26 ‘Sustainable Transport for Development’ states development proposals will be supported where it can be demonstrated that the proposals make adequate arrangements for sustainable transport infrastructure; local traffic circulation, existing parking and servicing arrangements are not adversely affected; the highway network is, or can be made, suitable to cope with traffic generated, during construction and after occupation; and the scheme takes into account good practice guidance.

SP56 ‘Car Parking Layout’ states that layouts should be designed to reduce the visual impact of parking on the street-scene; discourage the obstruction of footways and ensure in-curtilage parking does not result in streets dominated by parking platforms to the front of properties.

Both condition 2 (approved plans) and condition 6 (car park layout) are relevant in respect of highway considerations and if approved, the car park layout will be amended, such that a seasonal closure (between the period 1st April – 30th September) of 5no car park spaces is proposed, which will be replaced by an outside seating area.

During the determination of the initial application (RB2015/0777) a car parking accumulation survey was requested so as to determine / justify the number of car parking spaces required for both the public house and shop. The accumulation survey was undertaken using industry software which looks at similar sites around the country. As a result, 27 parking spaces were proposed to be provided, with 3 of those being accessible spaces.

Whilst the initial application RB2015/0777 was refused planning permission, none of the reasons were highway related and the application was subsequently allowed on appeal by the Planning Inspectorate.

In the Inspector’s appeal decision at paragraph 18, it states with regard to the number of vehicle trips to the site and parking provision as a result of the objections raised by residents at the time:

“The proposal would result in an increase in vehicular movements to and from the site. However, based on the submitted evidence, most trips would be pass-by rather than primary trips and so would be likely to have little impact on the local network. Whilst there would be additional manoeuvres at the site accesses, I have no substantive evidence that this would result in harm to highway or pedestrian safety. I note that the Council has raised no objection to the proposed level of parking provision and based on the evidence before me, I see no reason to conclude the appeal proposal would result in off-site parking problems. The site is accessible by public transport and in a location with residential development easy walking distance. Therefore, I find no harm in relation to these matters”.

In respect of the current application to vary conditions 2 and 6 imposed by the Inspector, it is noted that in order justify the proposed reduction in the number of car parking spaces at the site to 22 (no reduction in disabled bays) between the period of 1st April and 30th September annually, the applicant has submitted a car parking accumulation survey at the site, during the early summer months, at times when the parking ‘need’ would likely be at its peak.

A period covering nine days, which included a Thursday, Friday and Saturday, from the hours ending 12pm to 9pm, i.e. 10 hours, was agreed in order to establish the current use of the car park provision. The dates the surveys were undertaken were Thursday 9th May – Saturday 11th May, Thursday 16th May – Saturday 18th May, Thursday 13th June – Saturday 15th June 2024.

The results of the car parking accumulation survey have shown that only once out of the 90 observed 1-hour occasions did the number of parked vehicles recorded, exceed 22. On this occasion Friday 17th May 2024 at 5pm, there were 24 vehicles recorded.

It is therefore likely, that should the application be approved and the scenario of 24 vehicles visit the site to park, then drivers of the additional 2 vehicles looking for a space, may well wait within the site curtilage for a space to become available, or leave the site to seek appropriate parking elsewhere, or indeed leave to return at a later time. It should also be noted that there are existing waiting restrictions immediately adjacent to the site, on Nursery Road.

As the survey has demonstrated that there may very occasionally be an additional 2 vehicles that may park on the adjacent highway, as such the conclusion of the car parking accumulation survey report are agreed and the change hereby proposed to the parking numbers for the period of 1st April to 30th September annually, would not be considered as having a severe impact on the highway network. Therefore, as set out in paragraph 115 of the NPPF, the development should not be refused on highway grounds.

Accordingly, in light of the above the Council's Transportation Infrastructure Service have raised no objections in a highway context to the changes subject to a suitable condition which ensures that the reduction of 5 parking bays is only between the period 1st April to 30th September, and all other previous

highway / transportation conditions should be updated accordingly where they have been previously discharged and retained where relevant.

Amenity

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, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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

The site is within a mixed residential / commercial area with dwellings located approximately 10m away from the boundary of the wider site.

The applicant is intending to use the terraced area between 1st April and 30th September annually. The applicant has indicated on the application form that the area would operate between the hours of 10:00 until Midnight, Monday – Sunday and until 01:00 (the following day) on Bank Holidays. There is an existing outdoor terrace area with benches/tables located to the southern elevation, which is noted on the plans as a 'winter terraced area'.

Concerns were raised with the initial proposed operating hours and the lack of information about how the proposed 'summer' terraced area and 'winter' terraced areas would operate. It was considered that the potential for both areas to operate at the same time and for the opening hours proposed initially, would potentially result in increased levels of noise from raised voices at nearby residential dwellings at unsocial hours, which would have a negative effect on their amenity and be in conflict with the national and local planning policies and guidance set out above.

The applicant after being made aware of the concerns outlined above proposed a reduction in opening hours of the two terraced areas to 11pm. However, there were still concerns and as such it has been agreed to reduce the operating hours of the 'summer' and 'winter' terraced areas to between 10am and 10pm, which is considered to be more acceptable and reduce the risk of them receiving noise complaints.

Additionally, the applicant has also confirmed that the proposed outdoor 'summer' and 'winter' terraced areas will not be used simultaneously. The outdoor 'summer' terraced area is proposed to be used from 1st April until 30th September annually, and the outdoor 'winter' terraced area from 1st October until 31st March annually. This proposal is considered acceptable and will be

subject to appropriate conditions, that will also require the tables and chairs and where applicable, planters to be removed from the site when the relevant area is not in use.

Furthermore, any new terraced area has the potential to become attractive for patrons during the summer months and result in more people being seated outdoors, especially if music and other entertainment is to be introduced. Given the close proximity of nearby noise sensitive receptors it is likely that late evening noise from this area would result in disturbance to local residents who may be enjoying their own gardens or trying sleep. Accordingly, a condition is recommended to restrict the playing of live or amplified music, or amplified audio to either of the outdoor terraced areas.

Based on the above, and subject to the recommended conditions, it is considered that the proposed amendment to the car parking area to allow the creation of a summer outdoor seating area would not result in a significant impact on local residents and would be in compliance with the provisions set out in the relevant national and local planning policies referred to above.

Other responses to objections

The issues raised by the objectors relate mainly to matters of highway and amenity impact. These matters are noted but the comments from colleagues in both Highways and Environmental Health have indicated that the changes to the scheme in respect of the layout, operating hours etc. together with the conditions proposed would overcome matters relating to highways and amenity concerns. The conditions will ensure that the scheme complies with the requirements of the relevant national and local planning policies and guidance and as such this outweighs the objections received.

Other issues raised relate to the original decision by the Inspector and the conditions they imposed. Those conditions have been discharged and will be reworded if still applicable to reflect that. If those approved details are not being complied with, enforcement powers are available to the Local Planning Authority, however this alone would not warrant a refusal of this planning application.

Comments have been received regarding the new site plan being flawed with tables encroaching into one of the bays; no evidence has been provided to justify the need to double the drinking area; no reference is made to change of use of the car park in any documents and land ownership.

The concerns about the plans being flawed are noted but the plans reflect what is there currently on site and what is proposed and the plan will be condition if the application is approved.

The comment relating to the fact that no evidence has been put forward to justify the seating area, is again noted but there is no requirement to justify the need for this seating area. However, the summer area and the existing

winter area will not operate at the same time and will be conditioned as such should the application be approved.

Whilst no reference is specifically made to the change of use of part of the car park during part of the year, there is no requirement in the description as the application is seeking a variation of condition, but effectively it will result in a change of use and that is set out in the report.

Matters relating to land ownership is not a material planning consideration.

Conclusion

It is concluded that notwithstanding the objections, the proposed variation of conditions and the provision of a 'summer' terrace area and reduction of 5 parking spaces between 1st April and 30th September annually, is considered to be acceptable subject to the conditions detailed in the report and would outweigh the objections.

Accordingly, subject to conditions relating to restrictions on the use of the terrace areas, its operating hours, together with no music being played within the terrace areas and variation to those conditions previously discharged, the application would be in full compliance with the requirements of the relevant national and local planning policies and is subsequently recommended for approval.

Conditions

01

The development hereby permitted shall be carried out in accordance with the following approved plans:

2824 LP01 Site Location Plan
2824 PL_16 Proposed Elevations
6243 PL15 rev M – Proposed Site Layout 'Winter'
9165-02a – Proposed Site Layout 'Summer'

Reason

To define the permission and for the avoidance of doubt.

02

The boundary treatment approved via the discharge of condition application RB2020/0955 shall be retained in accordance with the details approved.

Reason

In the interests of the visual amenity of the area.

03

The car parking spaces and pedestrian routes through the car park shall be retained in accordance with the drawing 6243 PL15 rev M approved by

RB2020/2010 between 1st October and 31st March annually and drawing number 9165-02a between 1st April and 30th September annually.

Reason

In the interests of highway safety.

04

The Delivery Management Plan submitted and approved via the discharge of condition application RB2020/0955 shall be adhered to at all times.

Reason

To safeguard the amenities of the occupiers of nearby properties and in the interests of Highway safety.

05

Notwithstanding Condition 1, no noise generating plant, including mechanical ventilation, refrigeration, air conditioning, extraction plant, chillers and free chillers, shall be installed in any part of the development hereby permitted until details have been submitted to and approved in writing by the local planning authority. The details shall include a BS4142:2014 noise assessment and 1/3 octave frequency analysis with appropriate corrections for acoustic features, and details of any mitigation measures, physical or operational, necessary to ensure that the source sound level (expressed as rating level) does not exceed 5dB above the measured background noise level. The plant shall be installed and operated thereafter in accordance with the approved details.

Reason

To safeguard the amenities of the occupiers of nearby properties.

06

The A1 retail unit hereby permitted shall only be open to customers between the hours of 07:00 – 23:00 Mondays to Sundays.

Reason

To safeguard the amenities of the occupiers of nearby properties.

07

Deliveries shall be taken at or despatched from the A1 retail unit hereby permitted only between the hours of 08:00 – 20:00 Mondays to Sundays.

Reason

To safeguard the amenities of the occupiers of nearby properties.

08

The outdoor 'summer' terraced area as shown on Drawing Number: 9165-02 shall only be open to customers between the 1st April and 30th September annually. The tables, chairs and planters shown on Drawing Number: 9165-02a for the 'summer' terrace shall be wholly removed from the site and the parking spaces reintroduced between 1st October and 31st March annually.

Reason

To safeguard the amenities of the occupiers of nearby properties.

09

The outdoor 'winter' terraced area as shown on Drawing Number: 9165-02 shall only be open to customers between the 1st October and 31st March annually. The tables and chairs shown on Drawing Number: 9165-02a for the 'winter' terrace shall be wholly removed from the site between 1st April and 30th September annually.

Reason

To safeguard the amenities of the occupiers of nearby properties.

10

The outdoor 'summer' and 'winter' terrace locations as shown on Drawing Number: 9165-02a shall only be open to customers between the hours of 10:00hrs and 22:00hrs Mondays to Sundays.

Reason

To safeguard the amenities of the occupiers of nearby properties.

11

There shall be no playing of live or amplified music, or amplified audio to the outdoor 'summer' and 'winter' terraced areas as shown on Drawing Number: 9165-02a.

Reason

To safeguard the amenities of the occupiers of nearby 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.