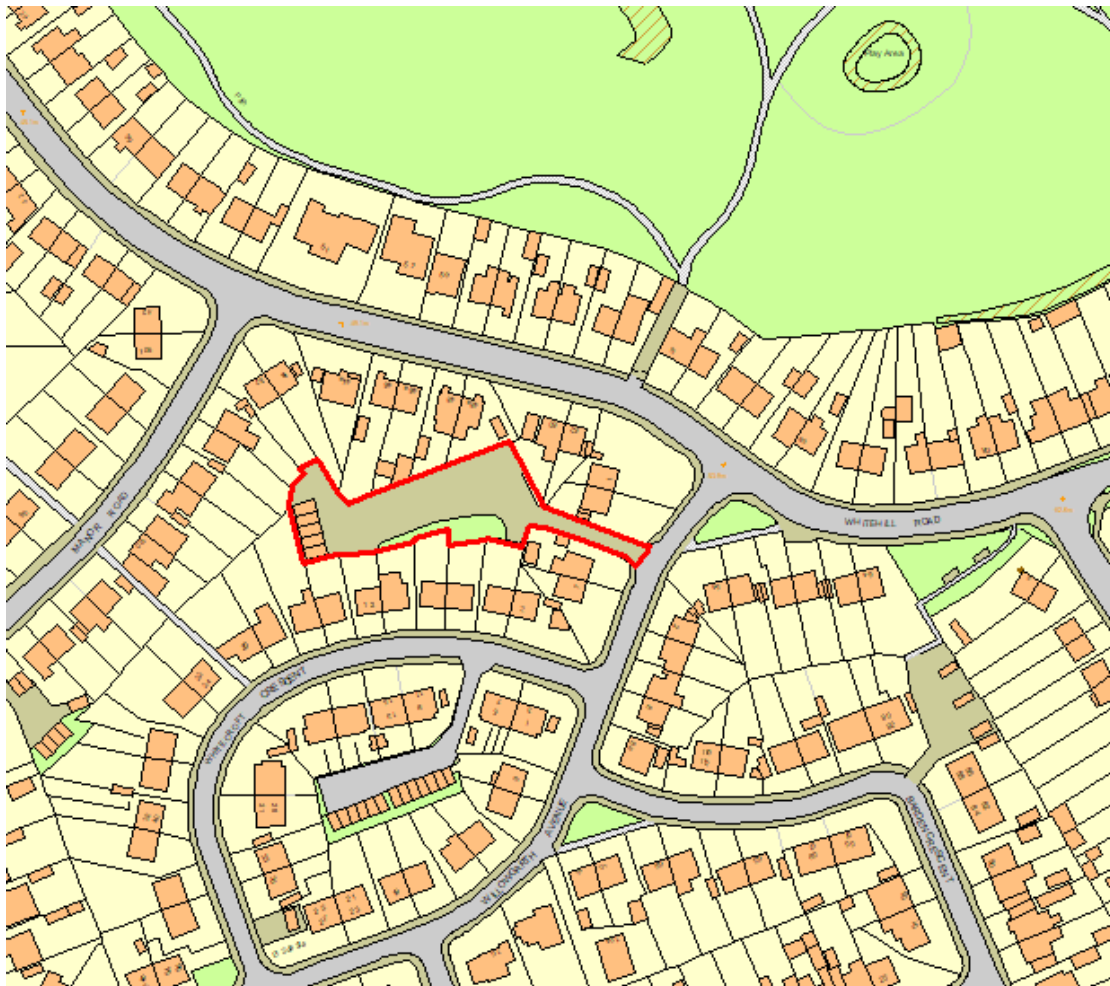


**REPORT TO THE PLANNING BOARD
TO BE HELD ON THE 01 May 2025**

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	RB2024/0593 https://rotherham.planportal.co.uk/?id=RB2024/0593
Proposal and Location	Demolition of bungalow and detached outbuilding and erection for 3 dwellinghouses, land rear of 3-5 Willowgarth, Brinsworth, Rotherham
Recommendation	Grant subject to conditions

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



Site Description & Location

The application relates to a site that lies to the rear of 3-5 Willowgarth Avenue in Brinsworth.

The application site is currently a garage court, though is in a state of disrepair and has not been used for some years. The majority of the garages have been demolished, however, the front part of the site is still used for parking and a block of garages are still present on site.

The application is for the demolition of the existing garages and erection of 3 single storey residential dwellings.

The application site lies within an established residential area. The surrounding area consists of medium density residential development comprising some variety of architectural styles, the majority of these are two storey scale and semi detached properties. The site is within walking distance of local shops and services within Brinsworth.

The site area is approximately 1320 square metres in total, though this also incorporates the access into the site. The site is enclosed by a mix of hedges and some fences, approximately 1.8metres high, though these appear to be privately owned by neighbouring properties. Although the site has a moderately large area available, this represents an elongated site which has significantly higher land levels than those to the north.

A number of trees along the northern boundary of the site are subject to a 1976 Tree Preservation Order (no. 5). However, all of these trees appear to have been removed in excess of 10 years ago, and these do not show on historic aerial photos.

Background

The site has been used a garages since the 1950s and the most relevant recent site history can be summarised below:

In 2016 an application for 22no. new detached garages was refused under RB2016/0482. The grounds for refusal include being overdevelopment with the size, scale, massing, form, design and siting of the garages and stores considered to be a poor form of development. The difference in land levels and short distances to the rear nos. 44a, 46, 46a, 48 and 48a Whitehill Road was also considered problematic.

The most recent application was in 2016 was approved for 19 No. pitched roof garages and 8 No. pitched roof stores (RB2016/1527). This application appears to have been part implemented but has not been completed.

Proposal

This is a full application which seeks permission for the erection of 3no. dwellings single storey in height, which will be detached. This has changed from the original proposal which was for 4no. bungalows.

The maximum height of the properties is approximately 5 metres to the apex and 2.3 metres to the eaves level. The plots will have gable style roofs and an

approximate total floor area between 62 to 64sqm. The properties all have private garden areas with an approximate total amenity area between 95 to 130sqm.

A Design and Access Statement has been submitted with the application and the main issues can be summarised as follows:

- A new tarmac, private driveway will provide safe and easy access for both vehicular and pedestrians/wheelchairs.
- The dwellings are to be built from Facing Brick with concrete interlocking tiled roofs, with white UPVC doors and windows throughout.
- Bin storage will be provided close to the private driveway within the garden space behind the foliage for the most convenient collection.
- The ridge height of the dwellings has been taken into consideration using the surrounding developments as point of reference. Care has been taken with levels to ensure that the proposed dwellings do not impact on the existing surrounding residents.

A Biodiversity Metric has been provided which indicates the following:

- The proposed development will result in an overall change in Habitat Units to -10.39% (-0.0707 Habitat units), and will require an increase of 0.1389 habitat units to achieve +10% BNG.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with the Sites and Policies Document which was adopted by the Council on the 28th 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:

Core Strategy policy(s):

CS3 Location of New Development

CS14 'Accessible Places and Managing Demand for Travel'

CS20 'Biodiversity and Geodiversity'

CS28 'Sustainable Design'

CS33 'Presumption in Favour of Sustainable Development'

Sites and Policies

SP11 Development in Residential Areas

SP26 Car Parking Layout

SP32 Green Infrastructure and Landscape

SP33 'Conserving and Enhancing the Natural Environment'

SP55 Design Principles

SP56 'Car Parking'

Other Material Considerations

The NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

The revised NPPF came into effect in December 2024. It states that “Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.”

South Yorkshire Residential Design Guide.

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

Publicity

The application has been advertised by way of site notice along with individual neighbour notification letters to adjacent properties. A total of 7 representations have been received which can be summarised as follows:

- Too many dwellings relative to the site area available.
- The development will result in the loss of privacy to neighbouring properties.
- Loss of light to neighbouring properties.
- Concern regarding disruption during construction.
- Potential for increased flooding.
- Insufficient parking.
- There are bats present on site and the development will disturb these.
- General detrimental impact on wildlife.
- Increase in noise.
- Previously the site has been poorly managed with hours of construction not adhered to.
- Loss of view and devaluation of nearby properties.

The application has been re-advertised following receipt of amended plans (the proposal has been revised to 3no. properties) with all initial objectors being re-notified.

Following the amendments One objector has withdrawn their earlier objection

No Rights to Speak have been received.

Consultations

RMBC

Transportation Infrastructure Service – no objections subject to condition

Drainage – no objections subject to condition

Ecologist – no objections subject to BNG plan condition

External

Yorkshire Water– no objections subject to condition

Appraisal

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

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

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

The main considerations of the application are as follows:

- The principle of development
- The design of the proposal, impact on the street scene and character of the immediate surrounding area and nearby residential properties
- Highway safety issues
- Biodiversity Net Gain (BNG)
- Trees
- Other issues

Principle of development

The application site is located within an area allocated for residential use within the adopted Local Plan and there is an existing property on the site.

Policy SP 11 “Development in Residential Areas” states that “Residential areas identified on the Policies Map shall be retained primarily for residential uses. All residential uses shall be considered appropriate in these areas and will be considered in light of all relevant planning policies.”

The site is allocated for residential purposes in the Local Plan. All neighbouring properties are also residential with some of the previous residential garages cleared from the site. It is considered that the earlier communal garage/community use has therefore been lost and it is not necessary to provide any further formally justification.

Overall, the principle of this residential development within an established residential area is acceptable.

The design of the proposal, impact on the street scene and character of the immediate surrounding area including neighbouring properties

The NPPF at paragraph 131 states: *“Good design is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 135 states planning decisions should ensure developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place.

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

It is noted that the majority of the properties surrounding the site are two storeys in height. However, it is considered that only a single storey scale of development could be accommodated on this site, due to the significant drop in land levels to north of several metres in height which exacerbates the impact of development on the existing properties on the southern side of Whitehill Road. The properties between nos. 44 to 50 are particularly affected. The short garden areas further increases the potential for future development of the former garage site to have a dominant impact.

In terms of the site appearance, there are limited views from outside vantage points and it is relatively self contained and surrounded by existing dwellings. The site has a poor appearance and previously contained a number of garages which were neglected. The development of the site will improve its appearance overall within the area and the use of bungalows is considered to be acceptable given the site constraints.

The bungalows are of a simple design architecturally but are acceptable within this area where there are a variety of modern style mainly former Local Authority housing. The materials are acceptable as are the roof styles and overall the development is considered to be of a high quality.

The surrounding area is typically characterised by mainly two storey semi-detached and detached properties that are of different ages.

It is considered that the land available is moderate, approximately 1320sqm in total, though the site is very elongated and a significant proportion of this is taken up by the access into the site. The original proposal for 4 dwellings was considered to result in a cramped appearance and the reduction to 3 dwellings allows better separation distances between the properties and neighbouring dwellings.

The plans show that the rear outlooks proposed by the new properties are generally able to meet 10m ground floor spacing standard. In addition, the single storey nature of the proposal will limit overlooking to neighbouring properties. In terms of garden/amenity areas it is noted that the development shows the new properties will all have external amenity areas that exceeds the minimum recommended amenity area of 60sqm. The internal layouts of the proposed dwellings also meets the minimum sizes set out in the National Described Standards.

The properties could be extended by way of permitted development extensions which potentially could impact significantly on the amenity of neighbouring properties. It is therefore considered appropriate to remove permitted development rights given the limited site area and relationship of neighbouring properties.

It is noted that the creation of boundary hedges, potentially 2m in height which is considered to prevent overlooking to the garden areas to the north. It is considered that this would also represent an acceptable compromise between reducing the potential for overlooking whilst preventing a potential dominant impact on the neighbouring properties to the north by this elevated boundary treatment, the majority of which already have short garden areas. The orientation of the properties and the roof design is also considered to minimise impact on the closest neighbouring properties.

Overall, this revised development is considered to have sufficient regard to the surroundings and is in conformity with Local Plan policies CS28 Sustainable Design, SP11 Development in Residential Areas and SP55 'Design Principles' as well as the general advice within the NPPF.

Highway safety issues

CS14 'Accessible Places and Managing Demand for Travel' states the Council will work on making places more accessible and that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by, amongst other things, locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel. Policy CS14 is supported by paragraphs 108 and 110 of the NPPF.

Paragraph 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."*

Policy SP 56 'Car Parking Layout' indicates that layouts must be designed to:

- a. reduce the visual impacts of parking on the street-scene and provide defined visitor parking on-street;*
- b. discourage the obstruction of footways by kerb parking, and parking that compromises the operation of the highway; and*

c. ensure in-curtilage / on plot parking does not result in streets dominated by parking platforms to the front of the property or large expanses of garage doors fronting the street.

The Transportation Unit noted that the originally submitted drawings did not indicate a visibility splay drawing or a swept path drawing. However, the latest revised drawing demonstrates that there is a turning facility capable of accommodating a fire appliance within the site. Car parking has been provided in accordance with the Councils parking standards and the vehicle access at the junction with Willowgarth Avenue will be amended with the provision of a continuous footway and dropped kerbing. These works will require an Agreement under S278 Highways Act, 1980 and involve the provision of a kerbline and footway on Willowgarth Avenue.

Overall, the layout amendments to the scheme conform to the design advice in Local Plan Policy SP 56 'Car Parking Layout' along with the more general advice in national policy requirements of the NPPF. There are no objection to the proposal from a highway safety, capacity and design context subject to relevant conditions.

Biodiversity

SP33 'Conserving and Enhancing the Natural Environment' indicates that: *Development should conserve and enhance existing and create new features of biodiversity and geodiversity value. Where it is not possible to avoid negative impact on a feature of biodiversity or geodiversity value through use of an alternate site, development proposals will be expected to minimise impact through careful consideration of the design, layout, construction or operation of the development and by the incorporation of suitable mitigation measures....or provide an adequate level of compensation. The aim of mitigation and compensation should be to respond to impact or loss with something of greater value; the minimum requirement will be to maintain 'no net loss'.*

In this case the application site is required to deliver 10% biodiversity net gain as the application was submitted after April 2024.

It is proposed to provide the BNG net gain to the front of the development site, in the eastern section of the site, outside of private garden areas. The Council's Ecologist notes that the BNG metric outlines that the site has a loss of 0.0707 units on-site or -10.39%. An increase of units but 0.1389 is required to meet the mandatory 10% net gain. The Ecologist is satisfied that this application can achieve 10% BNG via a standard pre-commencement condition.

It is also recommended that a condition be imposed which includes biodiversity enhancements on-site in the form of bat roosting features, bird nesting boxes and hedgehog holes. This is in addition to BNG no net loss and cannot be included in the metric. This is in line with the National Planning Policy Framework Paragraph 180 (d) which states that opportunities to

improve biodiversity in and around development should be integrated as part of their design.

Overall, subject to a biodiversity improvement condition along with additional landscaping and planting the development is considered to result in BNG in accordance with national and local policy SP33 'Conserving and Enhancing the Natural Environment'.

Trees

A pre-development tree report in support of the application has been submitted. This recommends the pruning of trees 4, 6 and 7 which lie within the north and northwest of the site. The trees numbered 1, 2, 3 and 5 are to be retained and trees 7 and 8 would be generally unaffected by the development. The Tree Officer has not specifically commented on the application. However, the trees on site are of a small scale and have a limited visual appearance on the surroundings. The trees within the original 1976 Tree Preservation Order all appear to have been fully removed and are not visible from historical aerial photos in 1999 or 2002.

As the site is directly adjacent to neighbouring gardens which have short spacing distances, the scope for any significant new tree planting is limited.

Overall therefore it is considered that the central area of the site does not have significant tree cover and the applicant has demonstrated that this element of the proposal complies with policy SP32 'Green Infrastructure and Landscape'.

Other issues

Affordable Housing

In this instance the site is approximately 0.13 hectares in size and is looking to provide 3 residential units and does not require any Affordable Housing provision.

A number of objectors have raised concerns around overlooking and overdevelopment. However, it is considered that the reduction in the number of units assists with reducing both of these issues compared to what was initially submitted.

Drainage and Flood Risk

The site does not lie within a known surface water flood risk area and is within zone 1 (lowest risk) on the Environment Agency's Flood Maps.

No detailed drainage proposals have been submitted as part of the application to detail how the site will be drained, but the Drainage Officer has raised no objections to the proposal from a surface water drainage perspective subject to condition.

Yorkshire Water have raised no objections.

Accordingly, subject to conditions the scheme would comply with policy CS25 'Dealing with Flood Risk'.

Conclusion

Overall in land use terms, the site is allocated for residential purposes and the principle of a new development is acceptable. It is considered that the land available for a development of 3no. units is of a sufficient size and shape to accommodate the scale of revised development proposed.

The linear layout proposed is considered to be of a satisfactory design which has sufficient regard to the general layout and character of the surroundings. The plots are considered to represent an acceptable compromise between achieving sufficient rear outlooks to existing properties to the north, west and south on adjacent sites as well as maintaining good levels of future landscaping provision.

The application is subject to the standard BNG condition in order to achieves the required +10% in biodiversity within the site, or provided offsite.

The application is recommended for approval, subject to conditions.

Conditions

General

01

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

Reason

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

02

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

(Drawing numbers

Location Plan A106

Site Plan revised Layout A-104 revision D

Site Sections A-104 revision D

Elevations and Floor Plans plot 1 A-103

Elevations and Floor Plans plot 2 A-110

Elevations and Floor Plans plot 3 A-102 Rev A

Received 19.04.24, and 01.04.25

Reason

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

03

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

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Local Plan Policies and the NPPF.

04

Prior to occupation of the first dwelling the approved boundary treatment (ref Boundary Layout Site Plan revised Layout A-104 revision D) shall be erected and thereafter retained for the duration of the development.

Reason

In order to ensure a satisfactory appearance in the interests of visual amenity and in accordance with Core Strategy Policy CS28.

Highways

05

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

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

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

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained and that mud and other extraneous material is not deposited on the public highway and that each dwelling can be reached conveniently from the footway in the interests of the adequate drainage of the site, road safety and residential amenity

06

The development shall not be occupied until details of the proposed alterations in the highway at the junction with Willowgarth Avenue, indicated on plan reference A-104 revision D, have been submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is brought into use.

Reason

In the interests of road safety.

07

Prior to the commencement of works a Construction Method Statement shall be submitted to and approved in writing by the Council and the approved statement shall be adhered to throughout the construction period. The Statement shall provide for; Storage / loading / unloading of materials / plant; and car parking facilities for the construction staff and include reference as to how the development will legally take access from the adjacent highway i.e. s278 or s184 agreement.

Reason

In the interests of road safety and to avoid the potential for conflict during construction.

08

Before the electrical system is installed a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 16A (3.5kW) for each dwelling.

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason

In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives Chapters 2, 9 and 15 of the National Planning Policy Framework.

Drainage

09

No above ground development shall take place until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.

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

10

Before above ground works commence a scheme for biodiversity enhancement, such as the incorporation of permanent bat roosting feature(s), hedgehog homes and nesting opportunities for birds, shall be submitted to and agreed in writing with the Local Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme.

The scheme shall include, but not limited to, the following details:

- i. Description, design or specification of the type of feature(s) or measure(s) to be undertaken;
- ii. Materials and construction to ensure long lifespan of the feature/measure
- iii. A drawing(s) showing the location and where appropriate the elevation of the features or measures to be installed or undertaken.
- iv. When the features or measures will be installed within the construction, occupation, or phase of the development.

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 details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme

Reason

To improve wildlife habitat across the site.

Biodiversity net gain

11

The Biodiversity Gain Plan shall be prepared in accordance with the [submitted ecology report BNG Summary Report] dated [October 2024] and prepared by [Armstrong Ecology].

Reason

To ensure that Biodiversity Net Gain 10% can be achieved.

Landscape

12

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

Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with the Local Plan.

Removal of Permitted Development Rights

13

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions or alterations otherwise Permitted under Part One Classes A (rear and side extensions) and E (outbuildings) shall be carried out to the approved development.

Reason

In the interests of the amenities of the occupiers of adjoining properties in accordance with the SYRDG.

Informatives

Ecology

Biodiversity Net Gain – condition 11

Unless an exception or a transitional arrangement applies¹, the effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that **development may not begin** unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be Rotherham MBC. Failure to submit a Biodiversity Gain Plan prior to the commencement of development will lead to formal enforcement action being considered, which could be in the form of a Temporary Stop Notice (that will require all development on site to stop, for a period of 56 days).

Biodiversity Gain Plan

The biodiversity gain plan must include/accompanied by:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- (b) the pre-development biodiversity value of the onsite habitat;
- (c) the post-development biodiversity value of the onsite habitat;
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- (e) any biodiversity credits purchased for the development;
- (f) any information relating to irreplaceable habitat making up onsite habitat

(g) information about steps taken or to be taken to minimise any adverse effect of the development on, and arrangements for compensation for any impact the development has on the biodiversity of, any irreplaceable habitat⁴ present within the onsite baseline.

(h) any additional information requirements stipulated by the secretary of state.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

1. do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
2. in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

- Listed exemptions from Statutory BNG and transitional arrangements can be found at Biodiversity net gain: exempt developments - GOV.UK (www.gov.uk)
- The Statutory Biodiversity Gain Plan template can be found at <https://www.gov.uk/government/publications/biodiversity-gain-plan>
- Minimum legal requirements for the Biodiversity Gain plan can be found at [https://www.legislation.gov.uk/ukpga/2021/30/schedule/14#:~:text=paragraph%2015\).-,Biodiversity%20gain%20plan,-14](https://www.legislation.gov.uk/ukpga/2021/30/schedule/14#:~:text=paragraph%2015).-,Biodiversity%20gain%20plan,-14)
- Irreplaceable habitats for the purpose of Biodiversity Net Gain are defined by Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024. A full list of irreplaceable habitats can be found at <https://www.legislation.gov.uk/uksi/2024/48/schedule/made>
- Additional information required is outlined by Articles 37C(2) [Non Phased] 37C(4) [Phased] of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and may be subject to the nature of your application <https://www.legislation.gov.uk/uksi/2015/595#:~:text=Additional%20content%20of%20plan>
- Where a Habitat Management and Monitoring Plan is required: <https://publications.naturalengland.org.uk/publication/58135300378460>

Please note that Informative 1 relates to Biodiversity Net Gain, and notes that this permission is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The Informative adds that failure to submit a Biodiversity Gain Plan prior to the commencement of development will lead to formal enforcement action being considered, which could be in the form of a Temporary Stop Notice (that will require all development on site to stop, for a period of 56 days).

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

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

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

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

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

Highways

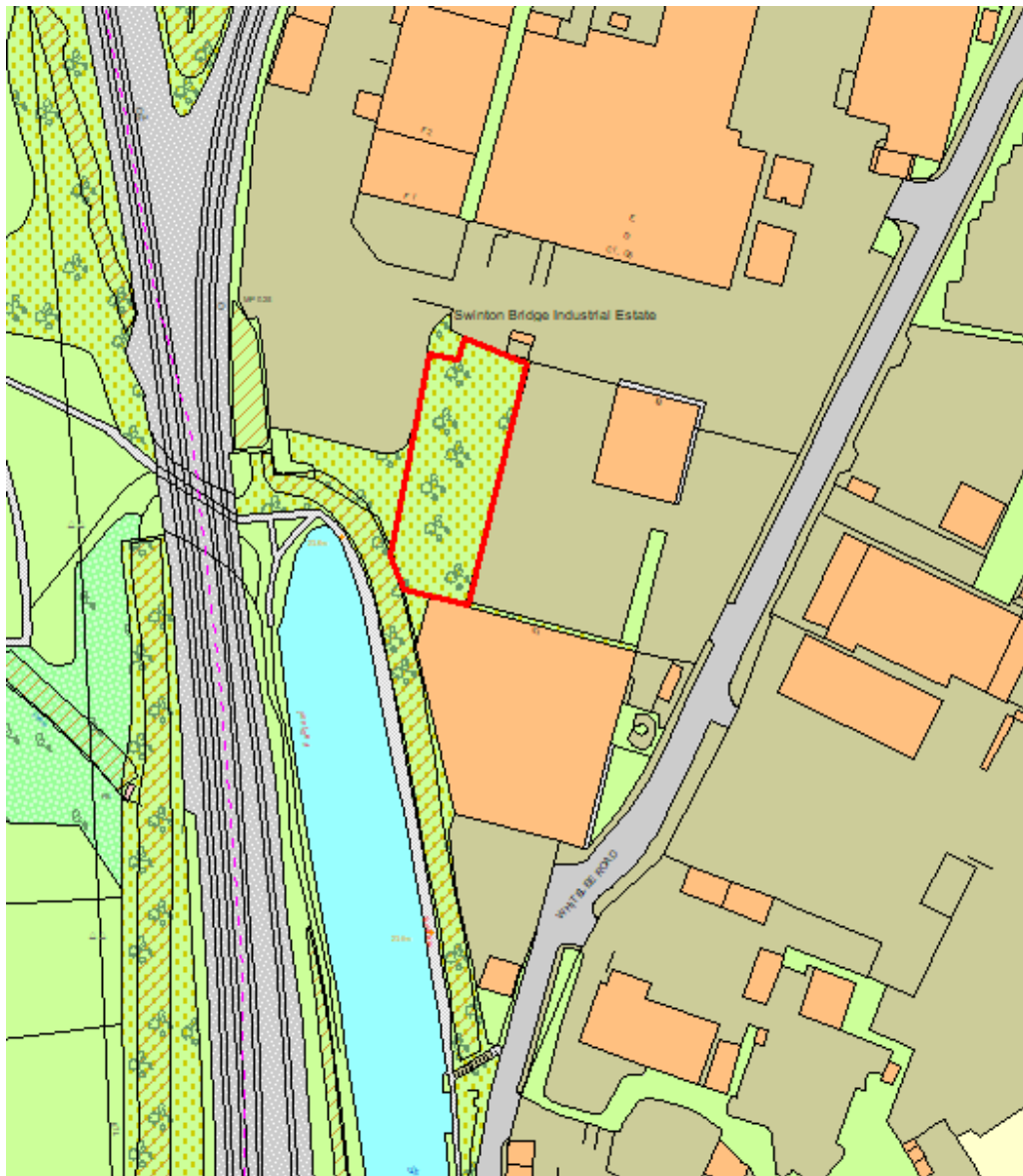
The developer should note that the works required under Condition 06 will require an Agreement under S278 Highways Act, 1980 and involve the provision of a kerbline and footway on Willowgarth Avenue. Contact should be made with david.phillips@rotherham.gov.uk in order to commence the legal process at the earliest opportunity.

POSITIVE AND PROACTIVE STATEMENT

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

Application Number	RB2024/1360 https://rotherham.planportal.co.uk/?id=RB2024/1360
Proposal and Location	Change of use to metal recycling plant (use class Sui Generis), JBM Metal Recycling, Unit G 2 White Lee Road, Swinton, Rotherham.
Recommendation	Grant subject to conditions

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



Site Description & Location

The application site is located at the western end of the White Lee Road. Industrial Estate in Swinton. The exact site area lies off White Lee Road and is accessed from an internal private driveway which also serves other unrelated uses which mainly comprise of industrial and storage uses.

JBM is detached from the other buildings in the area and lies to the south of the internal driveway. To the south of the site is Avago Karting, an indoor go karting site, to the south west is an arm of the Sheffield and South Yorkshire Navigational Canal and further to the west is the main railway line between Swinton and Rotherham. On the western side of the railway are residential areas. The nearest residential properties lie on Colonel Ward Drive and Highcliffe Drive which are located approximately 120-150m to the south west of the site.

The site is allocated for Industrial and Business purposes in the Development Plan.

The application is for a change of use from Use Class B1(b or c), B2 or B8 to Sui Generis (metal recycling facility) at Unit G2. The application is retrospective with the current business having started in approximately August/September 2023.

Background

The most relevant and recent planning history can be summarised as follows:

Planning permission for the erection of the industrial unit was granted by Rotherham Metropolitan Borough Council (RMBC) in September 2019, subject to conditions (ref RB2019/0848).

Condition 3 relates to the use of the building as follows: *'The building shall only be used for a use within Use Class B1(b or c), B2 or B8 and for no purposes within B1 (a).'*

Condition 7 states that:

No part of the land other than that occupied by buildings shall be used for the storage of goods, components, parts, waste materials or equipment without the prior written approval of the Local Planning Authority.

Reason To prevent the land from becoming unsightly in the interests of visual amenity and in accordance with Core Strategy Policy CS28 Sustainable Design

Proposal

The development seeks permission for a retrospective Change of use from a general use within Use Class B1(b or c), B2 or B8 to a metal recycling facility (use class Sui Generis) at Unit G2. The current business having started in approximately August/September 2023

The application has explained the development in a Planning Statement and Noise Assessment which can be summarised as follows:

- The nearest noise sensitive receptors (NSRs) to the site are existing residential dwellings on Colonel Ward Drive to the west. The dwellings are set back at least 120 metres from the site and are fully screened by an existing elevated railway embankment.
- The site is currently in use for the recycling of ferrous and non-ferrous metals. Materials are delivered to the site via wagon and unloaded into the yard, where they are moved using a 360° grab and sorted into bays.
- Operating hours at the site are 0800–1630 hours Monday to Friday and 0800–1200 hours on Saturdays. During the course of the noise survey, the noise climate in the vicinity of the site was formed by distant road traffic on the surrounding road network.

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 on 27th June 2018.

The site has an allocation for Industrial and Business purposes in the Local Plan.

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

Core Strategy policy(s):

CS9 Transforming Rotherham's Economy

CS10 Improving Skills and Employment opportunities

CS14 Accessible Places and Managing Demand for Travel

CS28 Sustainable Design

Sites and Policies Document:

SP16 Land Identified for Industrial and Business Uses

SP17 Other Uses Within Business, and Industrial and Business Areas

SP26 Sustainable Transport for Development

SP52 Pollution Control

SP55 Design Principles

Other Material Considerations

National Planning Practice Guidance (NPPG).

National Planning Policy Framework: The NPPF as revised 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 a site notices (October 2024) and letters to nearby commercial units. A total of 10 representations have been received from commercial and residential properties and can be summarised as follows:

- Serious safety concerns generated including two recent fires which caused the wider industrial estate to be evacuated.
- The operation requires high levels of heating.
- The site is too small for a metal recycling business.
- No onsite parking spaces are available and customers of the site regularly park on other peoples’ land causing obstruction.
- The site is not suitable for a scrap metal business and should be located elsewhere.
- The noise coming from the site is unacceptable with multiple loud bangs.
- There are regularly high waste stockpiles which further increases safety risks.
- The railway embankment might reduce noise levels to residential properties but they will not stop it.
- There is a tunnel under the railway which will allow sound waves to travel through via diffraction and reflection.
- The noise assessment does not clearly indicate why only one noise source was chosen, or how much ongoing monitoring was carried out.
- Noise levels vary throughout the week.
- Concern that any conditions imposed will not be complied with and concern that future enforcement will an ongoing drain on Local Authority and other agency resources.
- Unsightly visual appearance from metal storage.
- Drivers have been operating without due care and attention.

One Right to Speak from a local resident has been received.

Consultations

Streetpride (Transportation Infrastructure Service) – no objections

Neighbourhoods (Environmental Health) – no objections subject to conditions

Health and safety (HSE) – No reply

Environment Agency (EA) – no objections. The site will need an Environmental Permit but no objections to the application.

Canal and River Trust – no objections

Appraisal

The main considerations in the determination of the application are:

- Principle
- Impact on the surroundings (particularly noise impact)
- Highway safety issues
- Visual amenity
- Other issues

Principle

The application site is located within area allocated for industrial and business purposes. Policy SP16 Land Identified for Industrial and Business Uses states *“Within areas allocated for industrial and business use on the Policies Map, development proposals falling within Use Classes B1b and B1c, B2 and B8 will be permitted. Offices falling within Use Class B1a will only be acceptable where they are ancillary to the main proposed use or the proposals satisfy the requirements of Core strategy Policy CS 12 ‘Managing Change in Rotherham’s Retail and Service Centres...”*

Policy SP17 Other Uses Within Business, and Industrial and Business Areas states

“Within areas allocated for business, or industrial and business use on the Policies Map, proposals for alternative uses other than those identified as not acceptable in Policy SP 15 ‘Land Identified for Business Use’ will be considered positively having regard to other relevant planning policies and whether the following criteria are satisfied:

- 1. it can be demonstrated that the continued use of the site for business or industrial purposes would cause unacceptable planning problems which cannot be adequately mitigated, and alternative proposals are compatible with adjacent existing and proposed land uses, and the impact on amenity can be appropriately mitigated; or*
- 2. proposals are compatible with adjacent existing and proposed land uses and any impact on amenity can be appropriately mitigated; and either*
 - a. proposals positively contribute to the range and quality of employment opportunities in the borough...”*

In this instance the metal recycling use and storage is considered to represent a Sui Generis use. In this respect, it is acknowledged that the site has an employment history and an allocation for Industrial and Business use and that a Sui Generis Use is not included within the acceptable use classes highlighted in SP16. However, metal recycling is considered to be an industrial type use which is best suited to an area comprising of heavy industrial uses and has significant similarities to those types of uses that fall within a regular B2 use. The surrounding area comprises of a wide variety of uses falling within B2 and likely to be within Sui Generis including other recycling type sites and large industrial buildings. On this basis, it is considered that the site is an appropriate location for the proposed use given the character of the area and the use. The use also generates employment similar to a B2 type use and whilst the proposal is not in accordance with Local Plan Policies, overall, the location is appropriate for the use and is not considered to result in the loss of a general industrial/employment type site within this established industrial location.

From a purely land use perspective it is not considered that there are any specific objections to the principle of the development.

The principle of the development therefore appears to be acceptable in land use terms. However, the main impact is noise impact on the surroundings which will be considered in more detail below. In addition, the visual impact and highway safety is considered.

Noise and impact on the surroundings

The National Planning Policy Framework (NPPF) was updated in December 2023 and sets out the Government's planning policies for England and how these are expected to be applied. Where issues of noise impact are concerned the NPPF provides brief guidance in paragraph 180 where it states that planning policies and decisions should contribute to and enhance the natural and local environment by: *'preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of.....noise pollution'*.

Paragraph 191 advises that: *'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should.....mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life'*.

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

The Environmental Health Officer (EHO) has examined the planning application and associated documentation including the Noise Impact Assessment undertaken by Environmental Noise Solutions Ltd, dated 12th September 2024

(Ref: NIA-11639-24-11915-v1 Unit G2 White Lea Road). A visit to the area has also been carried out to determine the noise climate.

The EHO considers "...The site is located within an industrial area with residential dwellings located approximately 120m to the west of the site and that these are screened by an existing elevated railway embankment. Operating hours at the site are 0800–1630 hours Monday to Friday and 0800–1200 hours on Saturdays only with no working on Sundays. The site is currently in use for the recycling of ferrous and non-ferrous metals. Materials are delivered to the site via a wagon which is then unloaded into the yard, where they are moved using a 360° grab and sorted into bays.

The movement of metals using the 360° grab is by far the noisiest process taking place on site and the use of this plant has been assessed to calculate the impact on nearby sensitive receptors.

The assessment has been carried out using the methodology as contained within BS4142:2014+A1:2019. The noise emissions have been calculated on the basis that the 360° grab machine would be operating at 100% capacity, however in reality this is unlike to be the case. Noise from this plant is not continuous and therefore the calculated noise levels are an overestimation of the actual levels that will be emanating from site throughout the day. Further to this an additional +3dB character correction has been included for impulsivity.

The EHO notes that the noise report concludes 'that the proposed development will give rise to 'low adverse impact' as the calculated rating level has been predicted to be +2dB over the quietest measured background. BS4142:2014+A1:2019 requires that the average background noise levels are used in the calculations and therefore using the quietest measured levels also shows that a worst case scenario has been considered.

The Noise Impact Assessment has been conducted using a worst case scenario as it includes the 360° grab being used for 100% of the time and utilizes the lowest background noise levels for assessment. The EHO concludes that the assessment therefore appears to be robust and in practice the rating level over background is likely to be less than the +2dB that has been predicted.

A third party queried various aspects of the applicant's noise report. These included the nearest sensitive properties being located on Colonel Ward Drive, the tunnel under the railway embankment providing a breach to allow sound waves to travel through and questioned why the noise monitoring position 1 was selected.

Environmental Health Officers further reviewed the documents and the queries raised. They remain of the view that a single assessment location is acceptable. They are also of the view that although some noise escapes westbound through the tunnel, this generally goes towards Queen Street rather than Colonel Ward Drive. In a recent visit to the area the EHO was of the opinion that there was a definite reduction in noise level from one side of the embankment to the other. Overall officers accepted that the location of the noise monitoring is representative of background noise levels in the area.

However, to ensure nearby sensitive receptors are adequately protected from adverse impact from the use of the site during unsociable hours and the introduction of more noisy plant it is necessary to restrict the operating hours and the amount of grab plant that can be used on site.

Overall therefore the EHO concurs with the conclusions of the noise assessment subject to conditions restricting hours of use between 08:00hrs – 16:30hrs Mondays to Fridays and between the hours of 08:00hrs – 12:00hrs Saturdays with no operations on site on Sundays. In addition, only 1No. grab plant shall be used on site at any one time. Subject to these conditions the site is considered to conform with policy SP52 Pollution Control. There are no objections from a noise perspective.

Highway safety

Policy CS14 'Accessible Places and Managing Demand for Travel states:

The Council will work with partners and stakeholders to focus transport investment on making places more accessible and on changing travel behaviour. Accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by:

- a. 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 (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- b. Set thresholds where existing and future employers and institutions will need to adopt Travel Plans or Area Travel Plans as part of a programme of sustainable transport promotion.
- c. The use of maximum parking standards for non-residential developments aimed at reducing the number of car trips to and from them.

SP26 'Sustainable Transport for Development' states

Development proposals will be supported where it can be demonstrated that:

- a. *as a priority, the proposals make adequate arrangements for sustainable transport infrastructure; promoting sustainable and inclusive access to the proposed development by public transport, walking and cycling, including the provision of secure cycle parking, and other non-car transport and promoting the use of green infrastructure networks where appropriate;*

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

A number of objections received relate to delivery, parking and general highway issues with a particular concern raised on unauthorised parking on neighbouring land along with obstruction from inconsiderate parking.

The Transportation Unit have indicated that they are not aware of any highway related issues or complaints that have been reported to colleagues within the Transportation Unit related to the operation of the metal recycling use. The Transportation Unit note that the unit is located within an existing industrial estate, which appears to have sufficient space for vehicles to wait before entering the unit to unload etc. Access to the industrial estate, is via the existing vehicle access from White Lee Road, with no alterations proposed.

The Transportation Unit are of the view that there appears to be sufficient parking for staff within the industrial estate, and as this standard is a maximum, and they do not raise any objections on parking issues.

Overall therefore and whilst the specific objections on highway issues are noted, the majority of these appear to relate to obstruction of a private driveway along with unauthorised use of private land. These would be civil issues between the applicant and neighbouring business owners.

RMBC's Transportation Unit are not aware of any specific highway issues or problems with regard to White Lee Road and there are no highway objections to the proposals.

Visual amenity and design

Policy SP55 Design Principles and CS28 Sustainable Design indicates that 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.

From a visual perspective there have been no significant changes to the external appearance of the buildings on site.

The storage of scrap metal and other components within the site is considered to have a moderately unsightly visual appearance. However, the storage area is set well back in the site and is not easily visible from the public highway along White Lee Road. A plan has been received which indicates that materials will be organised on the site and stored in bays and a condition is recommended to ensure that the maximum height of stored material is 3 metres. The condition also requires that the current situation on site is remedied in accordance with the approved plan showing storage bays and maximum storage heights within 3 months of the date of the permission. It is considered that subject to these safeguards, the proposal would not have a significantly detrimental impact on the visual amenity of the surrounding industrial area.

A number of the objections have also criticized the visual appearance of the site as well as highlighting safety issues within the property. It is understood that there have been several fires onsite within the last year.

The Environment Agency have not raised any objections from a safety or operational perspective. The site may need an Environmental Permit. However, this is outside of the planning process and is covered by separate legislation.

Overall taking the above into account whilst it is acknowledged that there are concerns on visual amenity, the site is within an established industrial estate and is not easily visible from any public vantage point along White Lee Road. The site safety aspects are not issues that can be controlled under planning legislation. This would be an issue for the permitting of the site. The proposal is therefore not considered to conflict with SP55 Design Principles.

Other issues

In terms of drainage and flood risk, the proposal lies within a Flood Zone 1 area, the lowest risk and the Environment Agency have not raised any objections from a flood risk perspective.

Council's Drainage Team have not raised any concerns.

Landscaping and Biodiversity

The site is fully hard surfaced with minimal landscaping or biodiversity present on it. The alterations do not increase the hardstanding or footprint of the building and the proposal is therefore not considered to result in any further net loss of biodiversity within the site. This element is considered neutral and is considered to comply with policy SP33 'Conserving and Enhancing the Natural Environment'.

Conclusion

Overall the submitted noise details have been considered acceptable by the Councils Environmental Health Team. There are no highway safety concerns.

Visually although the appearance is utilitarian there are no objections on design grounds subject to conditions restricting external storage. The application is recommended for approval subject to conditions.

Conditions

01

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

(Drawing numbers Location Plan, Site Plan, Site Layout Plan 003)(received 19/09/24 and 28 November 2024).

Reason

To define the permission and for the avoidance of doubt.

02

The use hereby approved shall only operate between the following hours:
08:00hrs – 16:30hrs Mondays to Fridays

08:00hrs – 12:00hrs Saturdays.

There shall be no operations on site on Sundays or Bank Holidays.

Reason

In the interests of amenity to the surrounding areas.

03

Only 1 No. grab plant machine shall be used on site at any time.

Reason

In the interests of amenity to the surrounding areas.

04

The external storage on site shall be in accordance with the layout shown on Site Plan (003) received on 28 November 2024. The maximum height of any external storage shall be 3 metres and all materials shall be stored within the allocated bays in accordance with the approved plan. The site shall be operated in accordance with the submitted plan and restrictions on height of the stored material within 3 months of the date of this permission.

Reason

In the interest of visual amenity of the locality.

Informatives

Advice to LPA/applicant

This development may require an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12.

In circumstances where an activity/operation meets certain criteria, an exemption from permitting may apply, more information on exempt activities can be found here:

<https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits>

The applicant is advised to contact the pre-application team if you wish to discuss the issues arising from the permit application process.

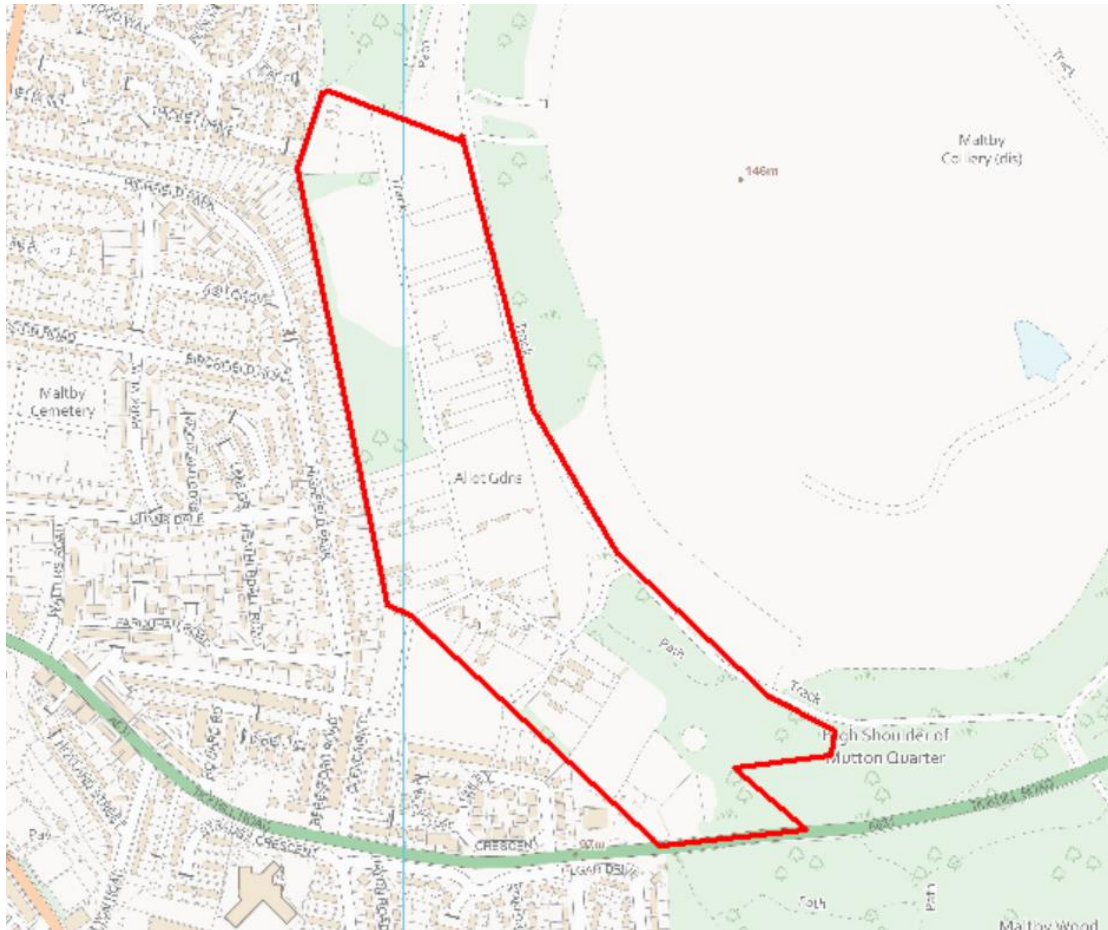
[Get advice before you apply for an environmental permit - GOV.UK](#)

POSITIVE AND PROACTIVE STATEMENT

Whilst the applicant did not enter into any formal pre application discussions with the Local Planning Authority, the proposals were in accordance with the principles of the National Planning Policy Framework and following clarifications did not require any further alterations or modifications.

Application Number	RB2024/1538 https://rotherham.planportal.co.uk/?id=RB2024/1538
Proposal and Location	Discharge of conditions 25 (Remediation Method Statement) & 32 (Waste Management) imposed by planning application RB2022/1638, Land North of Tickhill Road, Maltby
Recommendation	Grant Conditionally

This application is being presented to Planning Board at the request of Councillor Tinsley.



Site Description & Location

The application site forms an area of largely disused allotments, woodland and a former sports field set between Maltby and the former Maltby Colliery. The application is set over 15.9 ha and runs from the Tickhill Road along the line of the large Maltby Colliery spoil heap.

The site includes pedestrian accesses to the adjoining residential estate, with two Public Rights of Way (Maltby Footpath no. 2 and Maltby Footpath no. 18) running through the site. The southern element of the site includes Maltby Ancient Woodland.

The site predominantly follows the boundary of the allocated Housing Site H70, though excludes from this allocation the existing public open space area (approximately 1.5 hectares) located at the rear of 161 – 179 (odd) Highfield Park and 8-35 (inclusive) Aldersgate Court. Additionally, the site includes land to the east of the H70 allocation and around the site access which is within the Green Belt (approximately 3.4 hectares) as well as an area to the east allocated Greenspace (approximately 0.4 hectares).

The entrance to the site forms part of the Mallin Croft Wood Ancient Woodland, as well as part of the Maltby Commons and Woodlands Local Wildlife Site, which also runs adjacent to the northern boundary of the site, whilst within the site is Maltby Wood South, a 'candidate' Local Wildlife Site.

Background

MA1951/0089 - Land Adj Woodside Cottages - GRANTED CONDITIONALLY

RB1976/2281 - Environmental improvements works in connection with g.i.a. – GRANTED

MA1967/1122 - Outline for bungalow – REFUSED

RB2022/1638 - Outline planning application, with all matters reserved except means of access, comprising up to 185 dwellings, vehicle and pedestrian access, parking, public open space, landscaping and associated works - GRANTED CONDITIONALLY

RB2024/0841 - Reserved matters application details of landscaping, scale, external appearance and layout for the erection of 185 dwellinghouses including discharge of conditions 04, 05, 06, 07, 08, 13, 14, 15, 18, 21, 22, 23, 30, 31 reserved by outline RB2022/1638 - Currently undetermined

Proposal

This application relates to the discharge of conditions attached to an outline permission for residential development (Ref RB2022/1638). The applicant seeks permission to discharge conditions 25 (Remediation Method Statement) & 32 (Waste Management) imposed by the original outline planning permission RB2022/1638.

Condition 25

Subject to the findings of Condition 24 and prior to development (excluding site clearance) commencing, a Remediation Method Statement shall be provided and approved by this Local 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 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 and the National Planning Policy Framework.

Condition 32

Prior to above ground works a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan will need to include:

- 1) information on the amount and type of waste that will be generated from the site;*
- 2) measures to reduce, re-use and recycle waste within the development;*
- 3) design and layouts that allow effective sorting and storing of recyclables and recycling and composting of waste and facilitate waste collection operations during the lifetime of the development;*
- 4) measures to minimise the use of raw materials and minimise pollution of any waste;*
- 5) details on how residual waste will be disposed in an environmentally responsible manner and transported during the construction process and beyond;*
- 6) construction and design measures that minimise the use of raw materials and encourage the re-use of recycled or secondary resources (particularly building materials) and also ensure maximum waste recovery once the development is completed; and*
- 7) details on how the development will be monitored following its completion. The agreed details shall be implemented and thereafter maintained.*

Reason

To minimise the amount of waste used during the construction and lifetime of the project and to encourage the re-use and recycling of waste materials on site.

The applicant's Waste Management Plans States:

This WMP is a framework document intended to guide how waste should be managed during both the construction phase and operational phase of the Proposed Development to satisfy Condition 32 of the Reserved Matters planning application to be submitted to RMBC. The WMP is considered a 'live document' which will be updated throughout the construction phase, and adapted during the operational phase, where applicable, to reflect future legislation and recycling markets.

Waste will be managed in line with the waste hierarchy during both phases in order to minimise waste production and maximise the re-use and recycling of materials.

The CWMP provides a guide to the appointed construction contractors for how materials should be managed efficiently and disposed of legally during the construction of the development, explaining how waste would be prevented and how the re-use and recycling of materials would be maximised. It is expected that the Principal Contractor would update the CWMP as the development progresses.

The CWMP identifies the types and amounts of waste that are likely to be produced by the residents of the Proposed Development, and outlines measures that will be incorporated into the Proposed Development to ensure the maximum recycling, reuse and recovery of waste at the Site.

It is considered that, with adherence to the recommendations within this WMP, the Proposed Development would comply with national, regional and local waste management requirements.

The Applicant's remediation strategy states that:

The remediation strategy for the site at Tickhill Road, Maltby, primarily involves:

- Reviewing prior investigations and reports, including the latest topsoil sampling results and the Remediation Options Appraisal.
- Segregating the site into distinct areas based on contamination levels:
- Area A: Some soils may be suitable for reuse after removing visible asbestos and other anthropogenic materials. Additional clean soil cover may be needed in areas with higher contamination.
- Area B: Topsoil requiring removal from private gardens to be used in non-infrastructure landscaping or Public Open Space (POS), followed by clean capping. Surplus contaminated soil might require off-site disposal.
- Area C: Soil deemed suitable for reuse without additional remediation.
- Allotment Area: Topsoil not suitable for allotment use but potentially reusable in residential gardens and POS (except near TP212 due to elevated lead levels).
- Implementing measures to address asbestos contamination, including hand-picking visible fragments, dampening soils during excavation to minimize dust, and conducting ongoing monitoring.

- Preparing a Materials Management Plan to document how materials will be excavated, tested, stored, and reused, ensuring compliance with regulatory standards.
- Supervising remediation activities and maintaining detailed records for eventual inclusion in a Verification Report.
- Performing a phased approach to site preparation to manage surface water, segregate contaminated materials, and maintain clean and contaminated stockpiles separately.
- Adjusting site levels to achieve a materials balance, minimize foundation depth adjustments, and provide stable platforms for development.
- Ensuring all remediation measures are verified and approved, with the final Verification Report certifying that the site is rendered safe and suitable for the intended residential development.

The Applicant's Gas Risk Assessment states that:

1. **Background:** The site is located near Maltby Colliery and covers 16 hectares. The development involves constructing 137 residential units. Gas monitoring was performed at the request of the local authority to assess the potential hazards posed by gases from a nearby spoil heap and deep made ground.
2. **Scope of Works:** The gas monitoring focused on methane, carbon dioxide, and oxygen concentrations. Monitoring took place across six visits between December 2024 and March 2025, as per CIRIA guidelines. Monitoring points were set in 8 boreholes to assess gas levels.
3. **Gas Monitoring Results:** The monitoring found no methane presence across all visits. The concentrations of carbon dioxide were generally low, with steady flow rates observed, but no significant sustained flows. This suggests that gas migration from the spoil heap is minimal and does not pose a significant risk.
4. **Current Guidance:** The gas regime was assessed using the CIRIA C665 methodology, categorizing the site as Characteristic Situation 1 (CS1) based on the recorded gas concentrations and flow rates. This indicates a very low risk from hazardous ground gases.
5. **Scope of Protection Measures:** No specific gas protection measures are required for the proposed development, as the gas concentrations and flow rates are not significant enough to warrant additional protective measures.

6. Radon: The site is in an area with a low probability (1-3%) of radon exceeding the action level. Therefore, basic radon protection measures are not required but could be considered as a precautionary measure in line with the UK Health Security Agency's advice.

Development Plan Allocation and Policy

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

The application site is allocated for Residential development (Housing Site H70). For the purposes of determining this application the following policies are considered to be of relevance:

Local Plan policy(s):

CS27 'Community Health and Safety'

SP52 'Pollution Control'

SP54 'Contaminated and Unstable Land'

WCS7 'Managing Waste in All Developments'

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.

National Planning Practice Guidance (NPPG)

Publicity

There is no legal requirement to consult neighbours for a discharge of condition application, however the local Ward Member Adam Tinsley and the Maltby Town Council have raised observation regarding the land contamination condition.

Maltby Town Council State:

Placed on local authorities introduced by the Environment Act 2021, Maltby Town Council wish to lodge an observation concerning the contaminated topsoil found at RB2024/1538. The Council would like to know where the topsoil is being deposited and expressly does not want it deposited on the Maltby Pit Top - they seek assurances that this will not be the case.

Cllr Adam Tinsley states:

In application 0453 the applicant seeks to offer garden allotments on the northern part of the site. As identified in this application the land tested doesn't include the allotment land. Therefore in line with responsibility's of the environmental protection act 1990 part 2a i would urge the council to reject this application. As items such as land contamination should be dealt within a planning application and the allotment land has been excluded. As contamination has been found and evidenced within these reports it would be reasonable to presume land adjoining is also contaminated.

Both objectors and the applicant have requested the right to speak.

Consultations

RMBC – Land Contamination: Considers the information is acceptable to discharge this condition.

RMBC – Waste Manager: No Objections

Appraisal

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

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

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

The only issues for considerations in the determination of the discharge of condition app are whether the submitted details accord with requirements of the conditions.

Condition 25 Remediation Method Statement

Policy SP 54 states that:

“Contaminated and Unstable Land Where land is known to be or suspected of being contaminated, or development may result in the release of contaminants from adjoining land, or there are adverse ground conditions caused by unstable land, development proposals should:

a. demonstrate there is no significant harm, or risk of significant harm, to human health or the environment or of pollution of any watercourse or ground water;

b. ensure necessary remedial action is undertaken to safeguard users or occupiers of the site or neighbouring land and protect the environment and any buildings or services from contamination during development and in the future;

c. demonstrate that adverse ground conditions have been properly identified and safely treated; and

d. clearly demonstrate to the satisfaction of the Local Planning Authority, that the land is suitable for its current or proposed use.”

In relation to remediation of the allotment site, the latest remediation strategy was specifically revised to include the allotment area. 13 samples have been taken in this area and the remediation has been outlined in the strategy. This area will be remediated and suitable material for the allotment area will be provided as suggested in the Remediation Report.

The applicant has provided a comprehensive remediation strategy along with additional gas monitoring data. The remediation strategy has also been updated to address land contamination issues within the area of the site to become allotments. Further information has been received setting the timescales for carrying out the remediation which includes the allotment site.

Condition 26 of the original permission requires a post construction verification report is to be provided, following the completion of development.

Additional comments have been received regarding the potential for contamination to migrate from the adjacent Maltby Tip and specifically in relation to ochreous discharges. This has been assessed and considering present site investigation results, and it is unlikely that there is migration of contamination or that the adjacent tip will further impact on the site.

A separate planning application is currently being considered for additional/amended restoration of Maltby Tip; as part of that application, it is required that further ground/groundwater investigations are carried out.

The Council's Environmental Health (Contaminated Land Officer) considers the information submitted is acceptable to discharge this condition.

Condition 32 Waste Management Plan

Policy WCS7: Managing Waste in All Developments states:

A. All development proposals (excluding minor planning applications) must submit a waste management plan as part of the planning application. In particular, such plans will need to include:

1) *information on the amount and type of waste that will be generated from the site*

2) *measures to reduce, re-use and recycle waste within the development, including the provision of on-site separation and treatment facilities (using fixed or mobile plants where appropriate);*

3) *an assessment of the potential to re-use or adapt existing buildings on the site (if demolished it must explain why it is not possible to retain them);*

4) *design and layouts that allow effective sorting and storing of recyclables and recycling and composting of waste and facilitate waste collection operations during the lifetime of the development;*

5) *measures to minimise the use of raw materials and minimise pollution of any waste;*

6) *details on how residual waste will be disposed in an environmentally responsible manner and transported during the construction process and beyond;*

7) *construction and design measures that minimise the use of raw materials and encourage the re-use of recycled or secondary resources (particularly building materials) and also ensure maximum waste recovery once the development is completed; and*

8) *details on how the development will be monitored following its completion.*

B. Where waste management plans include on-site recycling, recovery and re-processing

provision they must demonstrate how these activities will comply with the requirements set out under policy WCS6.

C. Proposals for non-waste development must not prevent or prejudice the delivery and operation of waste management facilities within the vicinity of the safeguarded and allocated sites set out under policies WCS2, WCS3 and WCS5.

The applicant has submitted a comprehensive Waste Management Plan intended to guide how waste should be managed during both the construction phase and operational phase of the Proposed Development to satisfy Condition 32. The Waste Management Plan is considered a 'live document' which will be updated throughout the construction phase, and adapted during the operational phase, where applicable, to reflect future legislation and recycling markets.

The Council's Waste Manger considers the details acceptable and as such subject to the development being undertaken in accordance with the plan the condition can be discharged.

Specifically in relation to questions raised by the Town Council and Local Councillor in regards to deposition of material on Maltby Tip, the applicant has confirmed that while the exact location of the deposited topsoil has yet to be determined, we are committed to ensuring that no waste is placed on the Maltby Pit Top.

Conclusion

That the two conditions be discharged, subject to approved details being implemented.