

# Planning and Highways Committee

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**Tuesday 7 March 2017 at 2.00 pm**

**To be held at the Town Hall, Pinstone  
Street, Sheffield, S1 2HH**

**The Press and Public are Welcome to Attend**

## **Membership**

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Councillors Chris Rosling-Josephs (Chair), Peter Rippon (Chair), Ian Auckland, David Baker, Jack Clarkson, Michelle Cook, Dawn Dale, Tony Damms, Roger Davison, Dianne Hurst, Alan Law, Zahira Naz, Peter Price, Joe Otten and Zoe Sykes

## **Substitute Members**

In accordance with the Constitution, Substitute Members may be provided for the above Committee Members as and when required.

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## **PUBLIC ACCESS TO THE MEETING**

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The Planning and Highways Committee is responsible for planning applications, Tree Preservation Orders, enforcement action and some highway, footpath, road safety and traffic management issues.

A copy of the agenda and reports is available on the Council's website at [www.sheffield.gov.uk](http://www.sheffield.gov.uk). You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday. You may not be allowed to see some reports because they contain confidential information. These items are usually marked \* on the agenda.

Recording is allowed at Planning and Highways Committee meetings under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

Planning and Highways Committee meetings are normally open to the public but sometimes the Committee may have to discuss an item in private. If this happens, you will be asked to leave. Any private items are normally left until last.

Further information on this or any of the agenda items can be obtained by speaking to Martyn Riley on 0114 273 4008 or email [martyn.riley@sheffield.gov.uk](mailto:martyn.riley@sheffield.gov.uk).

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## **FACILITIES**

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There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

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**PLANNING AND HIGHWAYS COMMITTEE AGENDA  
7 MARCH 2017**

**Order of Business**

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- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**  
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest** (Pages 1 - 4)  
Members to declare any interests they have in the business to be considered at the meeting
- 5. Minutes of Previous Meeting** (Pages 5 - 8)  
Minutes of the meeting of the Committee held on 14 February 2017
- 6. Site Visit**  
To agree a date for any site visits required in connection with planning applications prior to the next meeting of the Committee
- 7. Cycle Tracks Act 1984 Section 3: Conversion to Shared Footpath/Cycletrack of Parts of Footpaths She/270 And She/271 at Hutcliffe Wood** (Pages 9 - 16)  
Report of the Interim Head of Planning
- 8. Applications Under Various Acts/Regulations** (Pages 17 - 68)  
Report of the Interim Head of Planning
- 9. Record of Planning Appeal Submissions and Decisions** (Pages 69 - 74)  
Report of the Interim Head of Planning
- 10. Date of Next Meetings**  
A Special meeting of the Committee will be held at 10.00am on 28 March 2017 and the next scheduled Committee meeting will be held at 2.00pm on 28 March 2017

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## ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

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If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest (DPI)** relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period\* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

\*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.

- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either -
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously.

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Audit and Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Gillian Duckworth, Director of Legal and Governance on 0114 2734018 or email [gillian.duckworth@sheffield.gov.uk](mailto:gillian.duckworth@sheffield.gov.uk).

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## SHEFFIELD CITY COUNCIL

### Planning and Highways Committee

#### Meeting held 14 February 2017

**PRESENT:** Councillors Peter Rippon (Chair), Ian Auckland, David Baker, Jack Clarkson, Michelle Cook, Tony Damms, Dianne Hurst, Alan Law, Zahira Naz, Joe Otten, Peter Price, Bob Pullin (Substitute Member) and Chris Rosling-Josephs

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#### **1. APOLOGIES FOR ABSENCE**

1.1 An apology for absence was received from Councillor Roger Davison and Councillor Bob Pullin attended as the duly appointed substitute. Apologies for absence were also received from Councillors Dawn Dale and Zoe Sykes, but no substitute Members were appointed.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the press and public.

#### **3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

#### **4. MINUTES OF PREVIOUS MEETING**

4.1 The minutes of the previous meeting of the Committee, held on 24 January 2017, were approved as a correct record.

#### **5. SHEFFIELD CONSERVATION ADVISORY GROUP**

5.1 The Committee received and noted the minutes of the meeting of the Sheffield Conservation Advisory Group held on 13 December 2016 and 17 January 2017.

#### **6. SITE VISIT**

6.1 **RESOLVED:** That the Interim Head of Planning, in liaison with a Co-Chair, be authorised to make arrangements for a site visit in connection with any planning applications requiring a visit by Members prior to the next meeting of the Committee.

#### **7. OBJECTION TO TREE PRESERVATION ORDER 412: LAND AT HASTINGS ROAD AND ABBEYDALE ROAD**

7.1 The Interim Head of Planning submitted a report outlining a response to an objection received to Tree Preservation Order No. 412 which had been made in

respect of trees situated on land at Hastings Road and Abbeydale Road. The report stated that Planning Permission Case No. 13/04204/RG3 had been granted for a housing development at the site subject to a condition which stated that, unless otherwise indicated on the approved plans for the development, no tree, shrub or hedge shall be removed from the site or pruned without the prior written approval of the Local Planning Authority. The condition was intended to secure the retention and protection of the majority of the trees along the Hastings Road and Abbeydale Road highway boundaries, as well as several additional trees within the interior of the site. In addition to the Condition, following the interior land at the site being sold by the Council, the Order was made to ensure those trees would continue to be protected.

- 7.2 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out prior to serving the Order, which found them to be in good order and of significant amenity value to the local area.
- 7.3 The objection to the Tree Preservation Order was outlined and the officer's response to the objection was detailed in respect of the procedure to be undertaken to carry out work on trees covered by the Order and regarding trees T1 to T7 being included in the Order.
- 7.4 The Tree Preservation Order and the letter of objection were attached to the report now submitted.
- 7.5 **RESOLVED:** That, following consideration of the objection now reported, TPO No. 412 in respect of trees situated on land at Hastings Road and Abbeydale Road be confirmed unmodified.

## **8. APPLICATIONS UNDER VARIOUS ACTS/REGULATIONS**

- 8.1 **RESOLVED:** That (a) the applications now submitted for permission to develop land under the Town and Country Planning Act 1990 and the Regulations made thereunder and for consent under the Town and Country Planning (Control of Advertisements) Regulations 1989, be decided, granted or refused as stated in the report to this Committee and as amended in the minutes of this meeting, and the requisite notices issued; the granting of any permission or consent shall not constitute approval, permission or consent by this Committee or the Council for any other purpose;

(b) having (i) noted an additional representation from 'CycleSheffield' and the officer's response, as detailed in a supplementary report circulated at the meeting and (ii) heard an oral representation at the meeting from a local Ward Councillor objecting to the proposed development and from the applicant's representative supporting the proposed development, an application for planning permission for the demolition of an existing public house and a hot food takeaway and erection of a 16-storey student accommodation building comprising 38 x cluster flats and 29 x studio apartments, with associated cycle parking, landscaping and amenity space including games area, gym, cinema, library, common room and lounge area at the ground and lower ground floor levels at the site of 82 to 84 Winter Street (Case No. 16/03264/FUL) be granted, conditionally;

(c) an application for planning permission for the demolition of an existing garage and erection of a new dwellinghouse at land at the rear of 45 to 47 Rodney Hill, Occupation Lane, Loxley (Case No. 16/02627/FUL) be deferred pending a visit of inspection to the site;

(d) having (i) noted a correction to the report by officers in respect of the information provided within the sections concerning “The Scale and Massing” and “Key View Analysis”, as detailed in a supplementary report circulated at the meeting and (ii) heard an oral representation at the meeting from the applicant’s representative supporting the proposed development, an outline application for planning permission for the demolition of existing buildings and erection of buildings to form a mixed use development (maximum floor space of up to 140,000sq metres) comprising office (Class B1), residential (Class C3), hotel (Class C1) and retail and leisure (Classes A1, A2, A3, A4, A5, D1 and D2) uses, provision of public realm space and car parking accommodation (Outline application - all matters reserved except for the principal means of access to the site from the junction of Bridge Street/Corporation Street) at the development site bounded by Corporation Street/Bridge Street/West Bar (Case No. 16/02518/OUT) be granted, conditionally, subject to an amendment to Condition 38 by the addition of the words “for that hotel accommodation” prior to the words “has been implemented”, as detailed in the aforementioned supplementary report; and

(e) having noted that the Legal Agreement had been completed, an application for planning permission for the part retention and part change of use of an open space to residential land for the erection of 6 dwellinghouses, with associated car parking spaces (Resubmission of 13/02172/FUL) on land adjacent to 227 Southey Green Road (Case No. 13/04340/FUL) be granted, conditionally.

## **9. ENFORCEMENT OF PLANNING CONTROL: 369 TO 373 ABBEYDALE ROAD**

- 9.1 The Interim Head of Planning submitted a report on her investigation into a breach of planning control in respect of the unauthorised metal canopy on the front of 369 to 373 Abbeydale Road. The report stated that Abbeydale Road had been targeted by the Council’s Planning Enforcement Team, with the aim of improving the general appearance of the area and that enforcement action had been taken in 2007, 2014 and 2015 to remove unauthorised canopies, and in 2012-16 to remove a number of illegal advertisements. On 1 July 2016 officers became aware of the erection of a metal canopy that had been attached to the front elevation of the property. Whilst the owner was given the opportunity to apply for planning permission for a traditional retractable canopy, the metal canopy had not been removed as requested and an application had not been submitted for the erection of a retractable canopy.
- 9.2 An assessment of the breach of planning control considered that the development had a detrimental effect on the visual amenities of the street scene and as such was contrary to Policies BE5 and S10 of the Unitary Development Plan.
- 9.3 **RESOLVED:** That (a) the Acting Director of Development Services or Interim Head of Planning be authorised to take all appropriate action including, if

necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised canopy at 369 to 373 Abbeydale Road; and

(b) the Interim Head of Planning, in liaison with a Co-Chair of this Committee, be authorised to vary the action in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

## **10. ENFORCEMENT OF PLANNING CONTROL: 12 CROYDON STREET**

10.1 The Interim Head of Planning submitted a report on her investigation into a complaint concerning a breach of planning control in respect of the unauthorised rear extension at 12 Croydon Street. The report stated that the large extension benefitted from permitted development rights under the amendments to the General Permitted Development Order (GPDO), as it was a single-storey building and built within the 6m length limit, but the owner had failed to inform the Local Planning Authority prior to its construction. In an attempt to regularise the extension, the owner had submitted two retrospective planning applications which had been made invalid as insufficient information had been provided.

10.2 An assessment of the breach of planning control considered that the extension as built was considered to cause an unreasonable overbearing impact to the neighbouring houses at 10 and 14 Croydon Street, which was detrimental to the living conditions of those properties. It was also viewed that the side window opening compromised the privacy to number 14 Croydon Street and that the extension substantially reduced the size of the yard space. As such it was contrary to Policies within BE5 and H14 of the Unitary Development Plan.

10.3 **RESOLVED:** That (a) the Acting Director of Development Services or Interim Head of Planning be authorised to take all appropriate action including, if necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised extension at 12 Croydon Street; and

(b) the Interim Head of Planning, in liaison with a Co-Chair of this Committee, be authorised to vary the action in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

## **11. RECORD OF PLANNING APPEAL SUBMISSIONS AND DECISIONS**

11.1 The Committee received and noted a report of the Interim Head of Planning detailing the planning appeals recently submitted to the Secretary of State.

## **12. DATE OF NEXT MEETING**

12.1 It was noted that the next meeting of the Committee will be held at 2:00p.m. on Tuesday 7 March, 2017 at the Town Hall.



**SHEFFIELD CITY COUNCIL**  
**PLACE Directorate**

**REPORT TO PLANNING AND HIGHWAYS COMMITTEE**

**DATE** 07/03/2017

**REPORT OF** ACTING DIRECTOR OF DEVELOPMENT SERVICES

**ITEM**

**SUBJECT** CYCLE TRACKS ACT 1984 CONVERSION OF PARTS OF TWO PUBLIC FOOTPATHS TO SHARED FOOTPATH/CYCLE TRACK AT HUTCLIFFE WOOD, SHEFFIELD.

**SUMMARY**

To seek authority to process the Cycle Track Order required for converting parts of Definitive Footpaths numbered SHE/270 and SHE/271 to a shared footpath/cycle track at Hutcliffe Wood in the Beauchief area of Sheffield, as shown coloured green on the plan.

**RECOMMENDATIONS**

**To raise no objections to the proposal to convert the Definitive Footpaths numbered SHE/270 and SHE/271, as shown coloured green on the plan, to a shared footpath/cycle track. This would be subject to satisfactory arrangements being made with Statutory Undertakers in connection with any of their mains and services that may be affected.**

Authority be given to the Director of Legal & Governance to

1. take all necessary action to convert the footpaths to a shared footpath/cycle track under the powers contained within Section 3 of the Cycle Tracks Act 1984.
2. confirm the Order as an unopposed Order, in the event of no objections being received, or any objections received being resolved and withdrawn prior to the Order being confirmed.

**FINANCIAL IMPLICATIONS**

**No**

**PARAGRAPHS 10.1**

**CLEARED BY**

Paul Foster

**BACKGROUND PAPERS**

**CONTACT POINT FOR ACCESS**

Mark Reeder

**TEL NO:** 27 36125

**AREA(S) AFFECTED**

Beauchief

**CATEGORY OF REPORT** OPEN

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CYCLE TRACKS ACT 1984 CONVERSION OF PARTS OF TWO PUBLIC  
FOOTPATHS TO SHARED FOOTPATH/CYCLE TRACK AT HUTCLIFFE WOOD,  
SHEFFIELD.

1.0 PURPOSE

- 1.1 To seek authority to process the Cycle Track Order required for converting parts of Definitive Footpaths numbered SHE/270 and SHE/271 to a shared footpath/cycle track at Hutcliffe Wood in the Beauchief area of Sheffield, as shown coloured green on the plan.

2.0 BACKGROUND

- 2.1 An opportunity has been identified to use Section 106 funds from nearby developments to provide a footpath/cycle track in this area.
- 2.2 Footpaths SHE/270 and SHE/271 are unsurfaced routes that travel through Hutcliffe Wood, linking Hutcliffe Wood Road and Abbey Lane.
- 2.3 Footpath SHE/270 commences at Hutcliffe Wood Road, shown as point 'A' on the plan attached as Appendix A, and terminates at Abbey lane shown as point 'E' on the plan.
- 2.4 The affected part of footpath SHE/271 commences at point 'C' on the plan attached as Appendix A, and continues until it meets footpath SHE/270 at a point shown as 'D' on the plan

3.0 PROPOSALS

- 3.1 To convert parts of footpath SHE/270 and SHE/271 to a shared footpath/cycle track, as shown green on the plan.
- 3.2 To construct a new section of footpath/cycle track linking footpath SHE/270 and SHE/271, commencing at a point shown as 'B' and joining SHE/271 at point 'C' as shown on the plan attached as Appendix A.
- 3.3 Definitive Footpaths SHE/270 and SHE/271 are recorded as being 3ft wide along their entire route. Where it is converted to a shared footpath/cycle track the width will be increased to approximately 2.5m.

3.4 The paths being converted and newly created will be constructed from crushed stone. Short lengths, where the path meets Hutcliffe Wood Road and Abbey Lane, will be finished with a tarmac surface. This will help reduce surface erosion.

#### 4.0 LEGAL IMPLICATIONS

4.1 The Director of Legal and Governance has been consulted and has advised that it would be appropriate to process an Order under the Cycle Tracks Act 1984 to convert parts of the Definitive Footpaths to a shared footpath/cycle track.

4.2 A local highway authority may in the case of any footpath for which they are the highway authority, by order made by them and confirmed by them as an unopposed order, designate a footpath, or any part of it, as a cycle track. This order may be confirmed by the authority as an unopposed order only in the form in which it was made.

4.3 In the event that objections are received that cannot be resolved and therefore the order cannot be confirmed as an unopposed order, the local highway authority will re-evaluate whether the order should be confirmed. Should the decision be made to proceed, approval will be sought via a subsequent Committee report making clear the difference in approach – namely the local highway authority shall ask that the order be confirmed by the Secretary of State either in the form in which it was made or subject to such modifications as he thinks fit.

4.4 Once the order has been confirmed, the footpaths to which the order relates shall continue to be highway but shall become highways over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles) as well as on foot.

#### 5.0 HIGHWAY IMPLICATIONS

5.1 The new shared footpath/cycle track will provide cyclists with an off-road route giving them the option of avoiding a significant length (approximately 1.2km) of Abbeydale Road South.

5.2 The conversion of these sections of footpath to shared footpath/cycle track on the basis described in Sections 2 and 3 above should not adversely affect the public's enjoyment of the area and will have no detrimental effect on the surrounding highway network and its users.

#### 6.0 CONSULTATIONS

6.1 Consultations have been carried out with Statutory Undertakers (i.e. utility companies), the Emergency Services, and other relevant bodies, including footpath societies. Ward Councillors have also been informed.

6.2 Not all the consultees had responded at the time of writing this report. Of those that have responded no objections have been received.



6.3 If any negative comments relating to this application are received before the Planning and Highways Committee meeting, they will be reported verbally.

## 7.0 EQUAL OPPORTUNITY IMPLICATIONS

7.1 Footpaths SHE/270 and SHE/271 are unmade often muddy tracks. The improved converted and newly created shared route will improve pedestrian access, particularly for less able bodied people and also for pushchair users.

## 8.0 ENVIRONMENTAL IMPLICATIONS

8.1 There are no specific environmental implications. The provision of additional traffic free routes for cyclists is part of the Council's strategy to encourage the use of cycling as an alternative to motorised transport.

## 9.0 CONCLUSION

9.1 Creation of the shared footpath/cycle track should not adversely affect the public's enjoyment of the area and will have no detrimental effect on the surrounding highway network and its users.

## 10.0 FINANCIAL IMPLICATIONS

10.1 All costs associated with this proposal will be funded from s106 monies, any additional costs outside the scope of this agreement would be funded by Transport, Traffic and Parking Services.

## 11.0 RECOMMENDATIONS

11.1 To raise no objections to the proposal to convert the Definitive Footpaths numbered SHE/270 and SHE/271, as shown coloured green on the plan, to a shared footpath/cycle track. This would be subject to satisfactory arrangements being made with Statutory Undertakers in connection with any of their mains and services that may be affected.

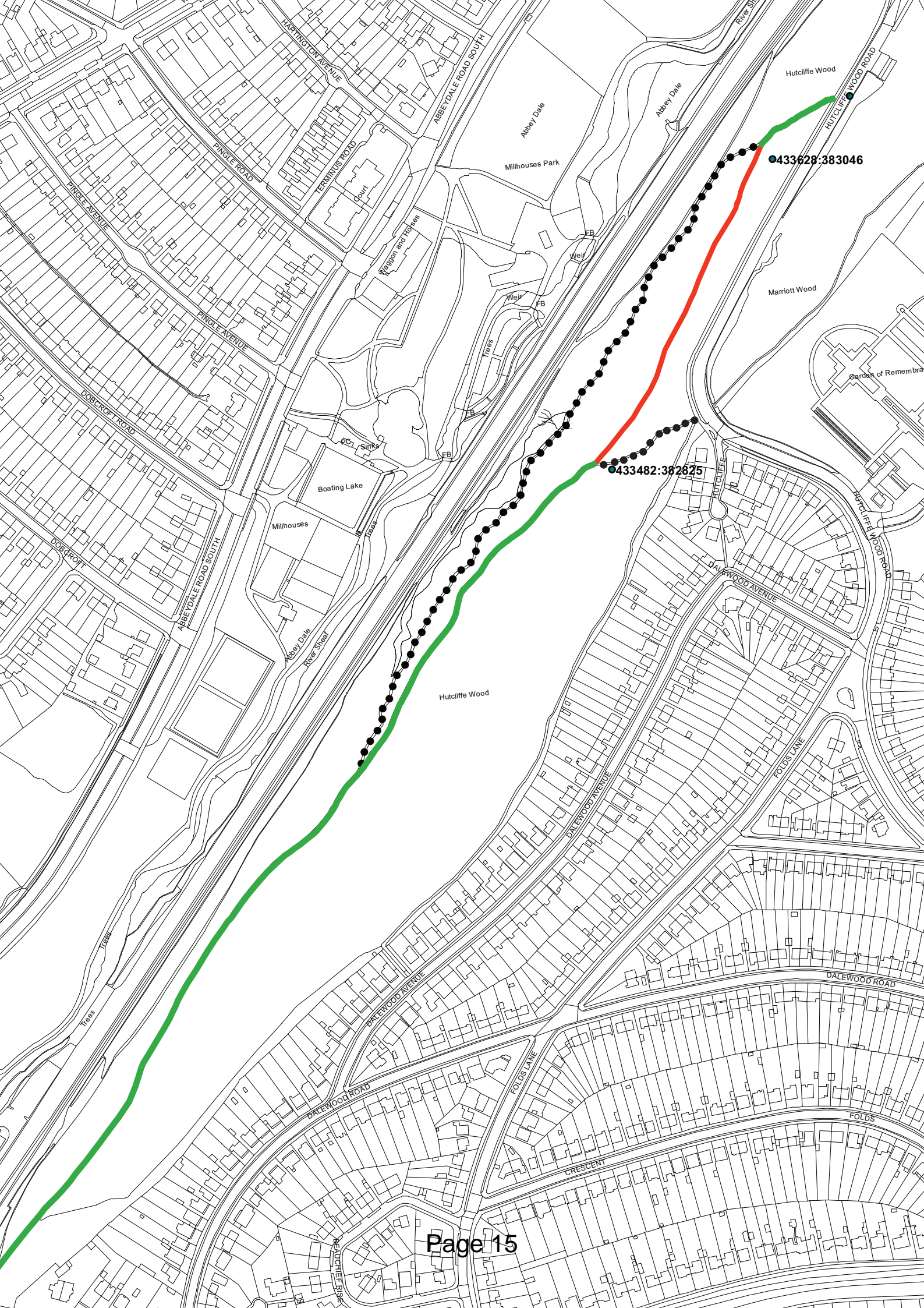
11.2 Authority be given to the Director of Legal and Governance to

- a. take all necessary action to convert the footpaths to a shared footpath/cycle track under the powers contained within Section 3 of the Cycle Tracks Act 1984.
- b. confirm the Order as an unopposed Order, in the event of no objections being received, or any objections received being resolved prior to the Order being confirmed.

Steve Robinson  
Head of Highway Maintenance

7<sup>th</sup> March 2017

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## SHEFFIELD CITY COUNCIL Planning and Highways Committee

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**Report of:** Director of Development Services

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**Date:** 07/03/2017

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**Subject:** Applications under various acts/regulations

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**Author of Report:** John Williamson and Lucy Bond 2734218

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**Summary:**

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**Reasons for Recommendations**

(Reports should include a statement of the reasons for the decisions proposed)

**Recommendations:**

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**Background Papers:**

**Category of Report:** OPEN



Application No.	Location	Page No.
16/04679/OUT (Formerly PP-05668665)	Site Of Oughtibridge Mill Sheffield Site 22 - 24 Main Road Wharncliffe Side Sheffield S35 0DN	21
16/04497/FUL (Formerly PP-05645959)	14 Mosborough Hall Drive Sheffield S20 4UA	40
16/03932/FUL (Formerly PP-05499498)	Prospect Farm Kirk Edge Road Sheffield S6 6LJ	47
16/02627/FUL (Formerly PP-05305309)	Land Rear Of 45 To 47 Rodney Hill Occupation Lane Loxley Sheffield S6 6SB	58

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## SHEFFIELD CITY COUNCIL

Report Of The Head Of Planning  
To the Planning and Highways Committee  
Date Of Meeting: 07/03/2017

### LIST OF PLANNING APPLICATIONS FOR DECISION OR INFORMATION

\*NOTE\* Under the heading "Representations" a Brief Summary of Representations received up to a week before the Committee date is given (later representations will be reported verbally). The main points only are given for ease of reference. The full letters are on the application file, which is available to members and the public and will be at the meeting.

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Case Number	16/04679/OUT (Formerly PP-05668665)
Application Type	Outline Planning Application
Proposal	Application to remove requirement for provision of affordable housing (Application under Section 73 to remove condition 22 (Affordable housing provision) from planning permission 16/01169/OUT)
Location	Site Of Oughtibridge Mill Sheffield Site 22 - 24 Main Road Wharnccliffe Side Sheffield S35 0DN
Date Received	12/12/2016
Team	West and North
Applicant/Agent	Nathaniel Lichfield & Partners (Leeds)
Recommendation	Refuse

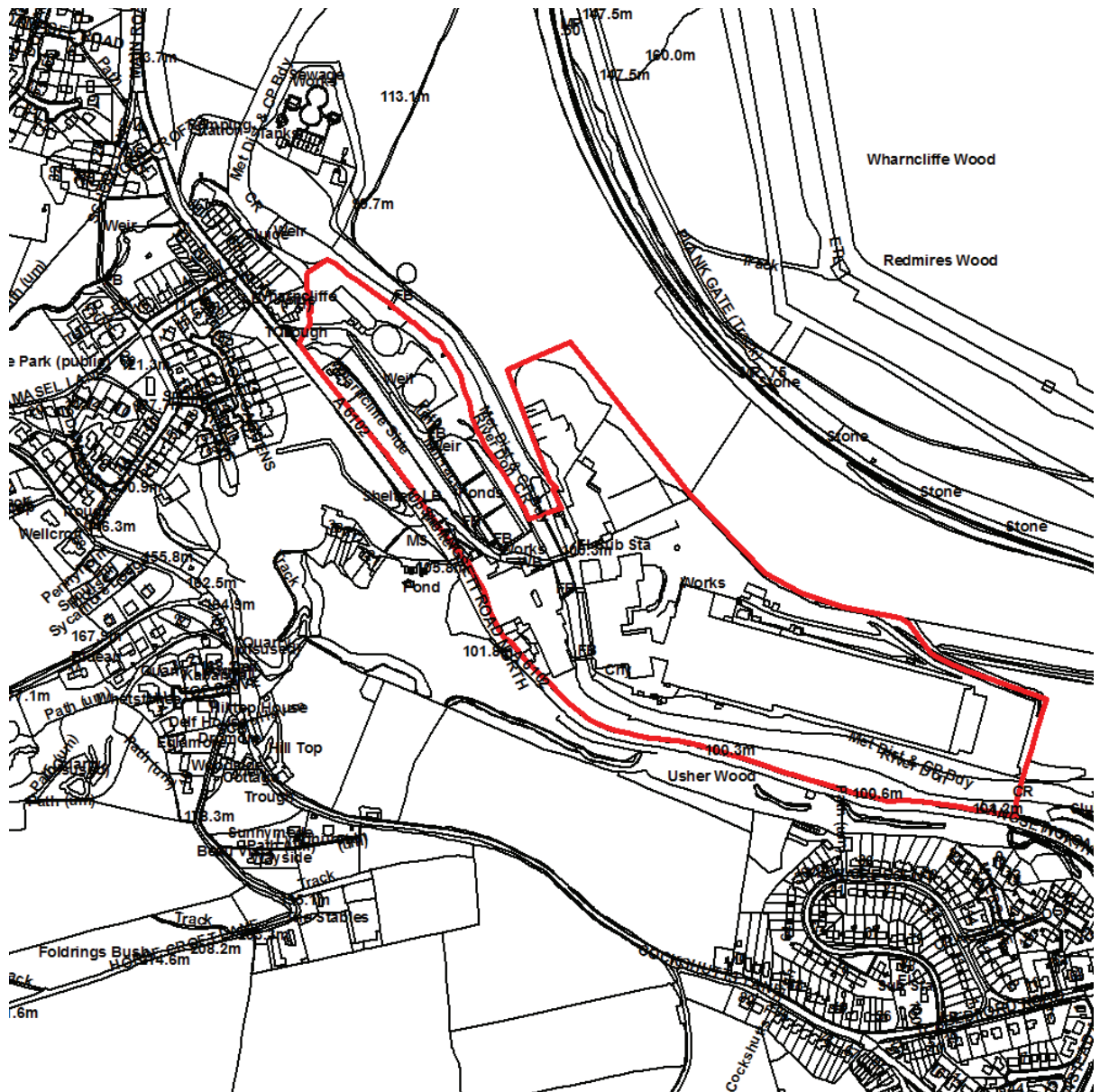
#### **Refuse for the following reason(s):**

- 1 The LPA consider that Vacant Building Credit (VBC) is not applicable in respect of the application. As stated at Paragraph 023 of Planning Practice Guidance on Planning Obligations (PPG), the purpose of the VBC is to incentivise the development of brownfield land, including empty and redundant buildings. The evidence presented by the Council shows that VBC was not needed to incentivise the development of this site so in

accordance with the PPG, having regard to the intention of national policy, it is considered that VBC should not apply to this development.

- 2 It is the opinion of the Local Planning Authority that the buildings at Oughtibridge Mill have been abandoned. As such, it is considered that VBC is not applicable to the scheme as detailed at Paragraph 023 of the PPG.
- 3 Notwithstanding the above, in the opinion of the Local Planning Authority the delivery of affordable housing pursuant to Core Strategy Policy CS40 should be given greater weight in respect of this application than the national policy for VBC (should it apply to this development). Sheffield has a significant need for affordable housing, which is currently not being met. The shortfall of affordable housing to be delivered through planning permissions, as established by the 2013 SHMA, is 725 homes/year. If the Council were only to take full contributions towards affordable housing from greenfield sites (or brownfield sites that have been cleared of existing buildings) then this would have a significant effect on its ability to meet the identified need. It is considered therefore that the development would be contrary to the provisions of Core Strategy Policy CS40 and guidance contained in Supplementary Planning Guidance CIL & Planning Obligations 2015

# Site Location



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## INTRODUCTION

The application relates to the site of Oughtibridge Mill, a former paper mill that lies on the eastern side of Main Road/Langsett Road North (A6102).

Members may recall that outline planning permission was conditionally approved in October 2016 for the demolition of the site's existing buildings and structures and the development of the site for residential use (Use Class C3). The permission was granted subject to thirty nine conditions, one of these conditions (No. 22) secured the delivery of affordable housing equivalent to 10% of the gross internal floor area of the total number of dwellings. The full wording of the condition reads as follows:-

*Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 5, no development shall begin until a scheme for the provision of affordable housing (as defined in Annex 2 of the National Planning Policy Framework (or any revocation or modification thereof in force from time to time)) which equates to 10% of the total number of dwellings gross internal floor area to be provided by the development has been submitted to and approved in writing by the Local Planning Authority. The scheme may provide for the provision of the affordable housing on a phase by phase basis. The development (and each phase thereof) shall be carried out in accordance with the approved scheme.*

Oughtibridge Mill is located in both the administrative boundaries of Barnsley MBC and Sheffield CC. On account of this, discussions between the two authorities took place in advance of the outline application being submitted in order to establish the procedural matters relating to the cross boundary nature of the site. It was agreed between the two authorities that the decision making authority in respect of the application (and all subsequent applications for the approval of reserved matters, S73 applications, NMAs and applications to discharge conditions) be delegated to Sheffield CC. Despite the largest part of the site being within Barnsley, the site's location along Langsett Road North adjoining the two settlements of Wharncliffe Side and Oughtibridge, and its remoteness from the main built up areas of Barnsley, would mean that it will function and draw mainly if not entirely upon the services located in Sheffield and not Barnsley.

## LOCATION AND PROPOSAL

The Oughtibridge Mill site is located relatively equidistant between Wharncliffe Side to its north and Oughtibridge to its south. The site covers an area of approximately 13.79 hectares and is bisected by the River Don. The land to the south and west of the River Don is located within the administrative boundary of Sheffield City Council, and is designated a General Industry Area (without Special Industries), whilst the land to the north and east of the River Don is located within the administrative boundary of Barnsley MBC. The land located within Barnsley's area is designated as Green Belt.

The application site sits on the valley floor with the main area of the site either side of the river being relatively flat ranging from 90m (AOD) to 102m (AOD). This is in contrast to the steep valley sides and undulating sloping landform.

The application comprises previously developed land including a number of existing buildings and structures that include traditional 19<sup>th</sup> C stone buildings fronting onto

Langsett Road North, a large 20<sup>th</sup> C warehouse shed, in addition to areas of cleared land, hardstandings and metalled roads. Building heights vary from two storey buildings fronting Langsett Road North, to the site's much higher warehouse buildings, which are up to 13m in height. Details submitted at the outline stage state that the site's remaining buildings provide in excess of 32,000 square metres of floorspace and have an overall mass of 215,000 cubic metres. The majority of the site's buildings and structures including the large warehouse building is located on the northern side of the River Don within the administrative area of Barnsley MBC. The level of existing buildings within the administrative boundary of Sheffield are minimal by comparison.

Planning approval is being sought to remove Condition No. 22 (Delivery of affordable Housing). The removal of the condition is being sought through a Section 73 application.

#### RELEVANT PLANNING HISTORY

16/01169/OUT - Demolition of existing buildings and structures and erection of residential development (Use Class C3) with means of site access including a new vehicular bridge and a pedestrian/cycle bridge across the River Don, and associated landscaping and infrastructure works (As amended by drawings received on the 11 and 16 August 2016) – 28 October 2016

16/01676/FUL - Erection of a new pedestrian/cycle bridge over River Don onto Langsett Road North (As amended by drawings received on the 17 November 2016 and 1 December 2016) – 5 December 2016

16/01677/FUL – Erection of a vehicular bridge over River Don – 18 October 2016

#### SUMMARY OF REPRESENTATIONS

A number of representations have been received in response to the application. These include objection letters from Barnsley MBC, Bradfield Parish Council, Loxley Valley Protection Society and Campaign for the Protection of Rural England (CPRE). Objection letters have also been received from three local residents. A summary of all the representations are listed below:-

Barnsley Metropolitan Borough Council (BMBC)

Barnsley Metropolitan Borough Council has raised an objection to the proposal based upon the following summary of reasons:-

- A development of such considerable magnitude and value should be expected to make a contribution towards the affordable housing needs of the Authority in accordance with the aims and requirements of national and local planning policies.
- Sheffield City Council's adopted CIL & Planning Obligations Supplementary Planning Document (October 2015) has determined that a developer contribution equivalent to 10% of gross internal floor area is viable on the majority of sites in the Rural Upper Don Valley AHMA, in which the application site is located. At the time of the outline application being submitted, and as outlined in the supporting planning statement at Paragraph 8.10, the applicant had agreed to provide a commuted sum equivalent to

10% on-site provision. This suggests that this level of provision is not a hindrance on the viability of the development. Conversely the application may be regarded as being speculative and opportunistic.

- It is questionable whether the Vacant Building Credit (VBC) outweighs objectively affordable housing needs taking into account of the findings of appeal decisions APP/K3605/W/16/3146699 and APP/Q1445/W/16/3147419.
- If VBC were to be applied on all eligible sites regardless of other policy objectives allowing the application would set a precedent that could be used by applicants elsewhere in many former industrial areas of the north, including Barnsley to diminish the number of affordable homes that could be delivered through new development.

### Campaign for the Protection of Rural England (CPRE)

Sheffield City Council (SCC) agreed with CPRE's submission at the outline application stage that the site was abandoned at the time of the application, and that therefore the application was not eligible for Vacant Building Credit (VBC). The applicant's agents Nathaniel Lichfield & Partners (NLP) assert that there is no evidence of its abandonment, and that a continued industrial use would have been entirely possible. However, the Capita press release announcing the sale of the site, dated 3<sup>rd</sup> March 2015, states:-

'The 110 acre (45ha) site includes 350,000 sq ft of former industrial buildings, and a number of development and residential opportunities within the sale. [Capita's review] has included decommissioning the former mill, and demolition of a section of the industrial complex which had become unsafe. Production of paper at the mill ceased in 2007.'

CPRE consider that it is abundantly clear that at the time of the site's sale, not only was it effectively abandoned as a usable complex of buildings, but that the purchase was made with the express purpose of marketing the site for residential redevelopment. With this in mind, we are no doubt that SCC's assessment was correct: that the site was abandoned, and therefore not eligible for VBC.

In the event that the scheme was deemed eligible for VBC, it is inevitable that any new residential development, unless at extremely high densities, would have a significantly lower built footprint than the entire complex of previous buildings, and that the calculation would therefore result in the affordable housing requirement being reduced to zero. However, as the scheme is not eligible for VBC, the affordable requirement remains.

Even if the scheme were eligible for VBC, it is at SCC's discretion to determine the weight of this as a material consideration. NLP seeks to argue, using appeal decision APP/D0840/W/16/3142537, that the applicability of VBC is quite a separate issue from the Core Strategy Policy CS40 to deliver affordable housing. However, the important point here is that the purpose of VBC and Policy CS40 are entirely different. CS40, along with the 2014 Interim Planning Guidance, exist in order to secure the delivery of affordable housing, and it is routine that this policy is implemented by use of a S106 planning obligation. A planning obligation is used to make an otherwise unacceptable development acceptable in planning policy terms. By contrast, VBC is an incentive to make the implementation of an acceptable planning permission more financially attractive to the developer. Therefore, if SCC had considered the scheme to eligible for VBC, they would

then have had to weigh up whether the re-use of the brownfield site is an acceptable planning outcome in and of itself, if affordable housing were not provided.

In our view, one of the most significant factors in assessing the weight to be attributed to affordable housing is the rate of affordable provision being achieved through the pattern of planning permissions within the housing market area. This rate is in fact painfully low, and is reflected in the fact that the adopted CS40 target of 30-40% across Sheffield has been subsequently reduced to 10%, despite no reduction in levels of need, on the pragmatic basis that it had more likelihood of being delivered. NLP asserts:

'It is certainly not the case... that SCC is so heavily reliant on the re-use of brownfield sites for the delivery of affordable housing that affordable housing policies should be attributed greater weight than the application of VBC in this case.' This assertion masks four fundamental issues:-

1. SCC is heavily reliant on every site for the delivery of affordable housing, and becomes more heavily reliant on each site every time a developer secures planning permission with a below-target affordable contribution;
2. Oughtibridge Mill is one of the largest development sites in the Upper Don Valley, and therefore to develop it without securing a meaningful affordable contribution would disproportionately undermine overall affordable delivery in the area;
3. The applicant had already indicated that a 10% affordable housing provision would be viable for the development, and in SCC's view this adds weight to their conclusion that developing the site without the affordable contribution would be unacceptable in planning terms;
4. Accepting that the site's eligibility for VBC is a matter of some judgement, whereas the need to deliver affordable housing is objective fact, allowing the application of VBC to produce a planning outcome that is, on balance, unacceptable, would be a poor decision.

Therefore, in CPRE's view, SCC took an entirely correct and appropriate approach to assessing both the eligibility for VBC and the weight that this should carry compared to the need to deliver affordable housing.

Finally, we must turn to the S106 Agreement and the conditions imposed on 16/01169/OUT. NLP states that:

"The outline planning permission was granted on 28<sup>th</sup> October 2016 following the completion of the associated Section 106 Agreement." Therefore, in law, at that point the applicant had agreed to fulfil the conditions imposed upon them by the permission. This is starkly at odds with their assertion that Condition 22 should never have been imposed in the first place. Planning Practice Guidance ID 23b -008-20140306 states: "Applicants do not have to agree to a proposed planning obligation. However, this may lead to a refusal of planning permission or non-determination of the application. An appeal may be made against the non-determination or refusal of planning permission."

It is clear, then, that the by signing the S106 Agreement the applicant has already accepted Condition 22. If they did not consider it to have been correctly imposed then they

should not have signed the agreement; and if this had resulted in a refusal of the application then they should have appealed or re-applied. By seeking to challenge the condition almost immediately upon granting of the permission the applicant is, in our opinion, attempting to subvert the planning process, and this undermines the trust that local communities place in the local planning authority to make decisions in good faith.

Loxley Valley Protection Society (LVPS)

LVPS objects to the application for the following reasons:-

- LVPS considers that the system for the provision of affordable housing in this country is, to all intents and purposes, “broken”, while planning law states it is for the developer to provide for this, this is what should be happening.
- The outline application was submitted with a commitment to provide 10% affordable housing in line with Core Strategy Policy CS40. Given that the application was submitted prior to the reinstatement of the VBC in PPG on the 19th May 2016, it should be taken from this that the development at Oughtibridge Mill is not one where VBC would be applicable.
- The idea that developers can agree to the provision of affordable which is later conditioned in the decision to grant the application, and then after granting apply to have that condition removed places the Council and general public in a completely untenable position.
- In order to qualify for VBC, the site would need to be deemed vacant and not abandoned. In this case, due to both the economic situation pertaining and flooding, the then owners of Oughtibridge Mill decided to halt production. The Council was engaged in a “call for sites” and this site was put forward. Based on those factors, any reasonable person would feel the factory had been abandoned as a place of production by the company running it and the most likely scenario of it being put forward in the call for sites would be to develop the site for housing (As in the Wednesbury Principle of reasonableness).
- If developers are consistently going to agree to affordable housing provision then withdraw it on the granting of permission, local authorities will find it impossible to grant permission under these circumstances, due to the breach in trust between LPA and developer.

Bradfield Parish Council

Bradfield Parish Council recommends that the application be refused.

Three representations have been received from residents of neighbouring properties.

Their comments are summarised as follows: -

- Support the development of this brownfield site with the inclusion of affordable housing. The only reason for the developer to renege on their commitment to provide affordable housing is greed;



- The need for affordable housing increases year on year, which should be supported at every level;
- This is a large proposed housing development that will have a significant impact on neighbouring villages. There is no reason why affordable housing should not be provided;
- Young people born and bred in Sheffield are unable to find starter homes.
- The housing site will provide considerable profit to the developers;
- Villagers need a range of property types to maintain a sustainable diversity not just properties for commuters who often have no interest in being part of village life and contributing to the community.

## PLANNING ASSESSMENT

A condition of granting outline planning permission to develop the site for housing in October 2016 was the delivery of affordable housing equivalent to 10% of total number of dwellings gross internal floor area. The condition (No. 22) was attached in line with Core Strategy Policy CS40, which states that in all parts of the city, developers of all new housing developments will be required to contribute towards the provision of affordable housing where this is practicable and financially viable. The applicant did not submit any evidence to show that an affordable housing contribution would make the scheme financially unviable. As such, the Council's development plan requires them to make the contribution in full.

Government policy on planning conditions and obligations is contained at Paragraphs 203-206 (inclusive) of the NPPF. Paragraph 203 states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 204 sets out the three tests of a planning obligation, i) necessary to make the development acceptable in planning terms, ii) directly related to the development, and iii) fairly and reasonably related in scale and kind to the development.

The implementation of Core Strategy Policy CS40 is through the CIL & Planning Obligations Supplementary Planning Document (SPD, October 2015). Guideline GAH1 of the SPD sets out that financial contributions will be required from housing developments on sites with a capacity for 15 or more dwellings. Guideline GAH2 sets the required developer contributions for each of the city's 12 Affordable Housing Market Areas (AHMAs). In the Rural Upper Don Valley AHMA, where the site of Oughtibridge Mill is located, it has been shown that a developer contribution equivalent to 10% of gross internal floor area is viable on the majority of sites, and is therefore the requirement for this part of the city. The SPD at Guideline GAH3 sets out circumstances where the Council may accept a commuted sum in lieu of an on-site contribution, for instance, where significantly more affordable housing of a high quality could be provided in the local area through off-site provision. In general, the Council's preference is for developers to provide an off-site contribution towards the delivery of affordable housing in the city as this approach allows a greater number of affordable housing units than with on-site provision.

The applicant agreed to the attachment of this condition in order to receive outline planning permission, this however was despite their view that the requirement to provide affordable housing in connection with the development should not be sought following the reintroduction of the Vacant Building Credit (VBC) in the Government's Planning Practice Guidance (PPG) in May 2016, following the Court of Appeal decision to overturn the High Court decision to quash the Written Ministerial Statement (WMS) that introduced such. This occurred 5 months before the application was determined. Officers disagreed with the applicant's position in this regard and this was supported by Members. Without the condition, officers contend that the application would have been refused for the failure to deliver affordable housing contrary to the provisions of Core Strategy Policy CS40, the CIL and Planning Obligations SPD, and government guidance contained in the National Planning Policy Framework (NPPF).

The application has been accompanied by a supporting letter from the applicant's agent (NLP), a letter from Walton & Co Solicitors and an appeal decision (APP/D0840/W/16/3142537). The applicant details in their supporting submissions that in their opinion, the site is eligible for VBC, which the Council should have applied in respect of the outline planning permission and as such, the condition seeking the delivery of affordable housing should not have been attached. The applicant contends that if VBC was applied to the site no affordable housing would be required since the proposed floorspace of the development would be less than that of the existing buildings on the site. The applicant contends that VBC is not subject to viability testing, a view that is supported by the appeal decision submitted, and that there is no basis on which to conclude that the industrial use has been abandoned to disqualify the site from the application of VBC. In terms of the supporting appeal decision, a mixed use scheme of both housing and retail, the Planning Inspector concluded that the appeal proposal would be eligible for the Vacant Building Credit and that the viability of the scheme in relation to affordable housing is not, a determining factor in this case.

For Members' information, Vacant Building Credit (VBC) was introduced as Government policy via a Written Ministerial Statement (WMS) titled '*Support for small scale developers, custom and self-builders*' in November 2014. The Government Minister introduced this statement by saying "*I would like to update hon. Members on the action that the Coalition Government has taken to free up the planning system and the further new measures we are now implementing to support small scale developers and hard-working people get the home they want by reducing disproportionate burdens on developer contributions.*" This followed a consultation on a series of measures intended to tackle the disproportionate burden of developer contributions on small scale developers, custom and self-builders. Amongst other measures the policy stated that vacant buildings brought back into use, or demolished for redevelopment, should benefit from a 'credit' equivalent to the floorspace of the vacant building to be offset against affordable housing contributions (unless they had been abandoned). The WMS concluded by stating "*We expect the implementation of these measures to have a significant positive impact on housing numbers by unlocking small scale development and boosting the attractiveness of brownfield sites. This will provide real incentive for small builders and to people looking to build their own home.*" It is the view of officers that the intention of the new policy was

clearly to support small scale developers and incentivise the development of brownfield sites.

Following a successful legal challenge in July 2015 against the WMS the Government removed all reference to the VBC from the PPG. This remained the case until the Court of Appeal overturned the earlier decision of the High Court in May 2016, and as a result the Government's policy on VBC was reinstated as lawful. Contrary to submissions made by the applicant, the Council did make their decision in accordance with government policy that existed at the time of the decision (not that which existed at the time of the application). Government policy on VBC was treated as a material consideration when determining the outline planning application in October 2016. However, for reasons that will be repeated later in this report it was felt that the policy should not apply to this scheme.

Planning guidance regarding VBC is contained in Planning Practice Guidance – Planning Obligations (PPG) Paragraphs 021, 022 and 023. VBC is an important material consideration, to which weight must be given in the determination of the application. The guidance states that: *'The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.'*

It details that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. The guidance advises that VBC would not be applicable to development proposals where the building has been abandoned, or in instances where the building has been made vacant for the sole purpose of redevelopment.

When considering the merits of the outline planning permission and the imposition of Condition No. 22, officers were of the opinion that in the first instance VBC is not applicable with regard to the development of the site and secondly, that even if it was, the weight that should be attached to the Council's policies in respect of the delivery of affordable housing should be given greater weight than the weight afforded to the Government policy. Having regard to all the supporting information and examining a number of recent planning appeal decisions (including the appeal decision accompanying the application), officers' position as set in the planning officer's report to committee remains unchanged and officers consider that the condition seeking the delivery of affordable housing should remain. The reasons for this view are discussed in detail below:

Vacant Building Credit should not be applied to this site

#### Intention

The application of VBC to this, and any, site is at the decision maker's discretion. It does not form part of the Council's development plan but is an important material consideration that must be taken into account when decisions are made. The Court of Appeal was very clear when handing down its judgment in May 2016 that the Government policies set out

in the WMS should not be applied in blanket fashion (the position that many authorities, including Sheffield, believed was the case when it was first introduced in 2014). It is for the Council to consider every case on its merits before deciding (i) whether or not the policy should apply; and if so (ii) how much weight it should be afforded in the planning balance.

The PPG very clearly states ‘The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.’ It is the view of officers that VBC should not be applied to this site because it is not required to incentivise development as per the intention of the PPG. In support of this position, officers give significant weight to the fact that the outline application was submitted with a commitment to pay the full 10% affordable housing contribution. The applicant made no attempt to claim viability issues in order to reduce the required contribution. It is accepted that national policy changed during the course of the application (and, as has been stated, the Council determined the application in accordance with the policy that existed at the time of the decision) however officers are of the view that it was significant that the application was submitted when there was no policy on VBC evidencing that it wasn’t needed to incentivise the development of this brownfield site. To clarify this point, while it is clear from the officer’s report that the decision was made in full knowledge of VBC following its reinstatement in May 2016, which significant weight was given, it is material in officers’ opinion that the viability of the development with a 10% affordable housing contribution was never questioned by the applicant at any stage of the application. Officers would surmise from this that the development of this site is not one where an incentive through a financial credit is warranted. In their supporting argument, the applicant has detailed that VBC would comprise an extremely limited incentive if its only effect was to make schemes viable, citing that such mechanisms are provided elsewhere under Paragraph 173 of the NPPF. Officers consider that the viability of a scheme runs at the heart of pursuing sustainable development, and despite the applicant’s view that it cannot be the only incentive of VBC, it is nevertheless the key component in most instances in the deliverability of a site and ensuring competitive returns to the developer.

As detailed above, the planning guidance relating to VBC at Paragraph 023 states that when considering how the vacant building credit should apply to a particular development, LPAs should have regard to the intention of national policy. Officers therefore contend that the policy does not apply with regard to bringing this brownfield site forward for development. The policy is worded clearly to incentivise the reuse of brownfield sites, for example where the likely costs of bringing forward the site, including the obligation to provide affordable housing, would otherwise render it unviable, which is not the case with the redevelopment of this site. Importantly, officers also assert that the policy is not relevant with regard to the development at Oughtibridge Mill, a site over 13.7 hectares, which would provide some 320 homes. As stated previously the WMS that led to the introduction of VBC in Planning Practice Guidance clearly stated its intention was to help support small scale developers by reducing disproportionate burdens on developer contributions. Officers would therefore contend that the intention of the policy is to lift the financial burden of small scale developers, custom and self-builders in order to bring brownfield sites forward for redevelopment and is not therefore applicable or representative of major housing sites such as the redevelopment of Oughtibridge Mill.

In terms of viability, the required developer contributions towards affordable housing are set out in Guideline GAH2 of the Council's CIL & Planning Obligations SPD (October 2015). This Guideline divides the city into 12 Affordable Housing Market Areas, which have required contributions of either 0%, 10% or 30%. These contributions were set based on the analysis of four main sources of evidence:

- Strategic Housing Market Assessment – need
- Strategic Housing Land Availability Assessment (2013) – land availability
- BNP Paribas Affordable Housing Viability Study (2009) – viability
- BNP Paribas CIL Viability Study (2013) – viability

As a result of this work, where a 10% or 30% contribution is expected, these should be viable on most sites in the area. The Council therefore expects developers to provide the full contribution, unless an independent viability appraisal deems that the contribution renders the scheme unviable. The site is located within an area where 10% affordable housing is considered to be viable.

It is of note that the average house price in Sheffield in Quarter 3 of 2016 was £152,730, compared to an average of £209,637 in the Rural Upper Don Valley AHMA. The average across all of the six AHMAs which require a 10% affordable housing target was £147,653. This suggests that development values for new housing on the site will be significantly higher when compared to many areas of Sheffield indicating that a 10% contribution would be viable.

It is noted that the Oughtibridge Mill site was bought by ASE II Developments in October 2015 for £7.4m, to be brought forward by CEG. Companies House records the nature of ASE II Developments' business as 'development of building projects.' At the time of purchase, the VBC had been removed from national guidance following the Court of Appeal's decision. On this basis, the Council asserts that the purchase was made in full knowledge that developing this site would require compliance with the Council's development plan policy for affordable housing, and with the intention of undertaking a building project as per the company's stated business. This, officers would suggest, is further evidence that VBC was not necessary to incentivise the development of this site and as such, as per national guidance, should not apply.

Further to this, NLP on behalf of CEG made submissions to Barnsley MBC in respect of their Local Plan consultation in December 2015. The submission promoted this site for residential development, and requested its removal from the Green Belt. In their submissions they stated that their indicative scheme was "considered to be fully deliverable in the short term and would likely generate considerable interest from house builders, with whom CEG would enter into partnership with, in order to bring the site forward for development." This document concludes by stating "CEG, on behalf of the ASE who own the site, are committed to bringing forward a residential redevelopment of the wider site at the earliest opportunity". This clearly supports the Council's view that the development of this site is viable and deliverable without the application of VBC and that VBC is clearly not needed to incentivise the development of this site.

Following ASE II's purchase of the site, a representative from CEG is reported in the media as saying 'This is one of the prime housing development opportunities in Yorkshire. The riverside and woodland setting at the gateway to the Peak District is unrivalled and

CEG looks forward to unveiling a new high quality residential-led proposal which will benefit the scenic Oughtibridge village.' Again, this was during the period in which the WMS had been quashed and any application would be expected to provide 10% affordable housing. Further evidencing therefore that VBC was not needed to incentivise the development of this brownfield site.

It is also of interest that the applicant's own agent (NLP) provided advice on their website with regard to the interpretation of the WMS. They write that 'Our view is that the judgement explains that a 'blanket approach' to these policies/ PPG paragraphs (or any government planning policy or guidance) is not correct, and that the weight to attach to the PPG's approach to small sites not having to make s106 affordable housing contributions, and to VBC, would be for the decision-taker to decide. In this respect, where LPAs' development plan policies are supported by up-to-date evidence, they will be able to continue to seek affordable housing in relation to small sites. And as regards VBC, an LPA might demonstrate, for example, that the credit should not be applied because the LPA's housing requirement is heavily reliant on the re-use of brownfield sites for the delivery of affordable housing.' Officers agree with this statement, particularly given that Sheffield does rely heavily on the re-use of brownfield sites to deliver both general needs and affordable housing with the most up-to-date figures showing that 94.7% of all new houses citywide are being delivered on brownfield sites.

At the time of the outline application being submitted, and as outlined in the applicant's supporting planning statement at Paragraph 8.10, the applicant had agreed to provide a commuted sum equivalent to 10% on-site provision, which would be secured through a S.106 legal agreement, an approach supported by the Council's Housing and Neighbourhood Regeneration Team. Based on estimated sales values for properties in this AHMA, the contribution would likely be in the order of £5million. This £5m would be incorporated in the Council's Stock Increase Programme and matched against c. £7m of borrowing to deliver approximately 100 homes, assuming average purchase and repair costs of £120,000 and an average Affordable Rent of approximately £100/week. 100 homes is a significant proportion (roughly 14%) of Sheffield's annual affordable housing shortfall.

#### Abandonment

The WMS clearly states that the policy on VBC will not apply to vacant buildings which have been abandoned. This is repeated in the PPG which states that 'The vacant building credit applies where the building has not been abandoned.'

The applicant states that the Oughtibridge Mill site is subject to ongoing management and has not been abandoned with the site's existing buildings substantially vacant for some time for commercial reasons. They contend that the site was vacated for commercial reasons, and not for the sole purpose of development (which would also be a reason why VBC would not apply if that were the case).

In terms of whether the buildings have been abandoned, unfortunately the PPG offers no definition on this, and there have been no court cases or guidance issued specific to abandonment in the context of VBC that officers are aware of from which a definitive view can be drawn upon. However, case law does exist that helps give guidance on how abandonment should be considered generally when determining planning applications. Of

particular relevance to this matter is the case of *Hartley v Minister of Housing & Local Government* [1970] 1QB 413. The approach of the Court in that case was to ask whether the use has “not merely been suspended for a short and determined period but has ceased with no intention to resume it.” If you consider the applicant’s response to Barnsley MBC’s consultation the evidence suggests that the site had been abandoned in this context. Statements in support of this view were; (i) The site ceased manufacturing operations in 2007 and due to the economic viability of the site, has ceased all level of operations in early 2015. It is clear that over a period of time the site has become redundant and not viable for its previous industrial use; (ii) Importantly, the agents acting on behalf of SCA have advised that the marketing exercise did not elicit any serious interest from parties wishing to acquire the site for continued employment use. Future use of the entirety of the site for employment use is therefore not considered to be a realistic prospect; and (iii) CEG, on behalf of the ASE who own the site, are committed to bringing forward a residential redevelopment of the wider site (incorporating land within Sheffield) at the earliest opportunity. In addition the purchase price of the site at £7.4m would strongly suggest that the clear intention for the site was its redevelopment for housing. Notwithstanding the relatively short period of time that may be considered to have elapsed, on the basis of the above it would appear that the use of the site had ceased and there was no intention to resume it. As such it could be claimed that the use of these buildings have been abandoned and as such VBC would not be applicable.

**Affordable Housing** –The weight attributed to the Council’s policy for the delivery of affordable housing and weight attributed to guidance contained in Planning Practice Guidance (PPG) following the reinstatement of the WMS

It is accepted that it is for the Council to decide on the weight that should be afforded to national policy and the guidance contained in the PPG. Both the National Planning Policy Framework (NPPF, paragraphs 17 and 111) and the Sheffield Plan Core Strategy (Policy CS24) promote the effective use of land by prioritising the development of previously developed (brownfield) land in the first instance. Over the period 2004/5 to 2014/15, 94.7% of housing completions were on previously developed land. For the current 5-year supply of housing land (sites available from 2015/16 to 2020/21), 88% is on previously developed land. This illustrates the importance of previously developed land for Sheffield in order to meet the city’s identified housing need. If VBC were to be applied on all brownfield sites that contain existing buildings regardless of other policy objectives, this would considerably diminish the number of affordable homes that could be delivered through new development.

As Members will be aware, Sheffield has a significant need for affordable housing, which is currently not being met. The 2013 Strategic Housing Market Assessment (SHMA) identified the backlog of existing need and projected arising need from newly forming households over the period 2013-2018. The assessment then compared this figure with the projected supply from planned new build programmes and through lettings within existing affordable housing stock. The SHMA arrived at a projected annual shortfall of 725 affordable homes. This equates to a shortfall of 3,625 affordable homes for that 5 year period. The shortfall figure of 725/year is therefore not the total need, but the number of affordable homes that would need to be delivered solely through the Affordable Housing planning policy if the city’s Affordable Housing needs are to be met. To give this some context, in March 2016 there were in excess of 39,000 households with an application on the Council’s rehousing register, of which between 4000 and 5000 were actively bidding

for social housing. This further demonstrates the scale of need for affordable housing in Sheffield.

The applicant considers that Sheffield's SHMA is out of date and does not accord with Paragraph 158 of the NPPF. The Council does not accept that its SHMA is out of date as contended by the applicant. The SHMA was published in November 2013, and being only 3 years old, is still considered to be current for these purposes. The approach to estimating housing needs, outlined in chapter 6 of the assessment, follows DCLG's practice guidance.

The applicant has also previously stated that of Sheffield's twelve affordable housing market areas, the location of the application site (within the Rural Upper Don Valley Affordable Housing Market Area) is shown in the 2013 SHMA to have one of the lowest annual shortfalls in affordable housing (two units).

The applicant has misinterpreted the Council's CIL & Planning Obligations SPD in basing its position on the shortfall of affordable housing in the Rural Upper Don Valley Affordable Housing Market Area. The Council's approach is to consider the need for affordable housing delivery on a citywide basis (as opposed to setting required developer contributions based partly on viability in different market areas), and therefore it is not considered to be relevant that the AHMA where the site is located contains one of the lowest annual shortfalls in affordable housing.

If the Council were only to take full contributions towards AH from greenfield sites (or brownfield sites that have been cleared) then this would have a significant effect on its ability to meet the identified AH need. On this basis, officers' view is that with regard to the development of this site, officers consider that the weight given to the development plan policy for the delivery of affordable housing should carry more weight than the Government policy for VBC. As previously referred to, this site could deliver up to 14% of the Council's annual need and given the challenges of securing affordable housing on other sites this is a material consideration of significant weight.

In this regard officers also suggest that the weight afforded to the WMS should be reduced given the questionable nature of whether it is needed to incentivise this development (therefore taking account of 'the intention of national policy') and the lack of viability evidence submitted by the applicant that could support their position.

### Relevant Appeals

Since the granting of outline permission, several appeal decisions have demonstrated that it is for the decision maker to determine what weight to give to the reinstated national policy and what weight to give to the development plan and how these competing interests should be balanced against one another. For Members benefit it should be noted that the WMS introduced two main policies relevant to affordable housing; (i) Vacant Building Credit (which is the subject of this application); and (ii) a small sites threshold whereby developments of 10 units or less (or no more than 1,000m<sup>2</sup>) should not seek AH contributions. All of the appeal decisions that officers are aware of relate to the small sites threshold rather than VBC however it is felt that they are still helpful to the consideration of this application.



Each case is fact specific but it is clear that many Inspectors are supporting Local Planning Authorities' views that their own affordable housing policy requirement should outweigh Government policy contained in the reinstated WMS. Contrary to the position advanced by the applicant many of these decisions also clearly show that the viability of a scheme is a factor that Inspectors have taken account of when considering the planning merits of developments that seek to remove their affordable housing contribution. Brief details of a small selection these appeal cases are as follows:

APP/K3605/W/16/3146699 – 18 July 2016

In this case, the Inspector dismissed an appeal involving the erection of a single dwelling in Surrey, deciding that the WMS dealing with affordable housing provision did not outweigh the Council's Core Strategy. The Council's policy required a financial contribution towards the provision of off-site affordable housing for developments of between one and four dwellings. The appellant argued that this was overridden by the Court of Appeal judgment which reinstated the WMS and Government policy. In ruling in favour of the Council, the Inspector decided that the Council's policy was generally consistent with paragraphs 47 and 50 of the NPPF which required local planning authorities to meet the objectively assessed affordable housing need. In addition, house prices within the borough were considerably in excess of both the regional and national average. There was a serious problem with the affordability of housing and since a large number of planning applications in the borough involved small schemes, the financial contributions raised were significant in supporting the delivery of affordable housing. While the WMS carried significant weight the need for a financial contribution had been justified by the Council.

APP/W0530/W/16/3142834 – 22 September 2016

This appeal related to 8 dwellings in Cambridgeshire, which had been refused partly due to the lack of affordable housing provision. The Inspector noted that the incorporation of the WMS into the PPG was a material consideration, but that the WMS needed to be addressed alongside local policy. The evidence of affordable housing need was deemed to be substantial, and the Inspector attached significant weight to this. The Inspector also had regard to the appellant's lack of evidence to show that affordable housing provision would render the development unviable.

APP/L5810/W/16/3155064 – 18 November 2016

An appeal regarding a single penthouse flat in a built-up area of Middlesex was refused for its lack of contribution to affordable housing. Although the Inspector gave weight to national policy, greater weight was given to the evidence of affordable housing need, and adopted local policy. The Council's policy required developments of less than 10 units to provide a financial contribution to an affordable housing fund in direct contrast to the more recent national policy. The Inspector referred to the national policy and guidance but also noted that small sites made a significant contribution to affordable housing supply. In addition, completion rates from larger sites were low meaning that the Council was heavily reliant on small sites to meet its high local affordable housing need. The Inspector also referred to the lack of viability evidence to show that the development could not proceed with the contribution included. In conclusion, the Inspector afforded greater weight to the need for the contribution in accordance with the development plan.

In this appeal, the Inspector noted that there was a conflict between the Council's threshold for delivering affordable housing, and that in the WMS and PPG. The Council's case noted the number of households on the housing register; high housing costs in the local area; that small sites make up 50% of completions; and that the Council's policy was supported by a viability appraisal. The Inspector concluded that in light of these facts, the national policy did not outweigh the Council's development plan. In addition, the Inspector noted that the appellant did not indicate that the contribution would negatively affect the scheme's viability.

For completeness it should be noted that there are also appeal decisions whereby Inspectors have found that the Government policy can outweigh a Council's development plan. Each case is fact specific but the reason for highlighting a selection of appeals that support local policy over national policy is to give Members comfort that a decision to go against Government policy can be reasonable in certain circumstances.

It is clear from these recent appeal cases that vacant building credit should not be applied by default in all cases but instead a decision maker must use its discretion. Whilst it forms a material consideration, which significant weight must be given in the determination of the application, it is just one consideration to be set alongside others including policies in the adopted development plan.

## SUMMARY AND RECOMMENDATION

The application relates to Oughtibridge Mill, a 13.7 hectare brownfield site that is situated between the settlements of Wharnccliffe Side and Oughtibridge. Outline planning permission was granted in October 2016 to develop the site for housing subject to 39 conditions, one of these conditions (No. 22) being the delivery of affordable housing equivalent to 10% of total number of dwellings gross internal floor area.

The applicant is seeking approval to remove Condition No. 22 of the outline planning permission and remove the requirement to make a contribution towards the Council's delivery of affordable housing. In support of the application, the applicant contends that following the reintroduction of the VBC in Planning Practice Guidance (PPG) in May 2016, the development of this site should not include any requirement to make provision for affordable housing. The applicant has stated that they consider that the development should benefit from VBC and as a result, given the amount of gross floorspace of the existing buildings that would be demolished as part of the development exceeding the gross floorspace of the proposed new houses, no contribution towards the delivery of affordable housing should be required.

The applicant contends that national policy and the guidance contained in PPG is a significant material consideration, to which greater weight should be afforded than that which should be attributed to the delivery of affordable housing pursuant to Core Strategy Policy CS40. The applicant also contends that VBC is not subject to viability testing, providing evidence of this in a recent appeal decision where an Inspector concluded that it was not relevant to the application of VBC, this was despite accepting there was a quantitative need for affording housing.

Despite the applicant's position, officers hold the view that VBC is not applicable in respect of the application. As stated at Paragraph 023 of PPG, the purpose of the VBC is to incentivise the development of brownfield land, including empty and redundant buildings with the policy implying that it is intended for brownfield sites which need an incentive to come forward for development. The WMS itself also indicates an intention to support small scale developments rather than large schemes such as this. The evidence presented by the Council shows that VBC was not needed to incentivise the development of this site and the PPG is clear that, in considering how VBC should apply to a particular development, local planning authorities should have regard to the intention of national policy. To reiterate; the outline application was submitted with a commitment by the applicant to provide 10% affordable housing (through a commuted sum) in line with Core Strategy Policy CS40 and the CIL and Planning Obligations SPD. Officers consider that the development of Oughtibridge Mill is not one where a VBC should be applicable since the site had already come forward for re-development without any financial incentive through VBC. It is the view of officers therefore that this application for VBC does not accord with the intention of the Government policy on such and therefore the policy should not apply in this instance.

In this case, the requirement for VBC to enable the delivery of this brownfield site has not been justified, with officers placing greater weight on the delivery of affordable housing pursuant to Core Strategy Policy CS40. The application was submitted on the basis that a policy compliant affordable housing contribution would be required and no effort has ever been made to demonstrate viability issues. For the applicant to now attempt to benefit from VBC in respect of this site, when a commitment of 10% affordable housing (through a commuted sum) had been given is considered to be at odds with the clear policy intentions of VBC and its reinstatement in Planning Practice Guidance. On the basis that the development of the site would be financially viable without the financial incentive of VBC and the Council's policy position of CS40 in terms of the delivery of affordable housing where viable, it is considered reasonable that a contribution is made.

It should also be noted that the outline planning permission does not specify a maximum permitted floorspace. Whilst it is accepted that the existing onsite buildings are significant, it is not certain that a scheme could not be delivered on this site that had a floorspace in excess of the current levels. Notwithstanding officers' overall views on this application, on this basis it could be considered premature to agree to waive an affordable housing requirement at this stage.

In light of the case presented by officers above, it is recommended that Members refuse this application.

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Case Number	16/04497/FUL (Formerly PP-05645959)
Application Type	Full Planning Application
Proposal	Retention of boundary fence
Location	14 Mosborough Hall Drive Sheffield S20 4UA
Date Received	30/11/2016
Team	City Centre and East
Applicant/Agent	Mr Torry
Recommendation	Grant Conditionally

### **Time limit for Commencement of Development**

#### **Approved/Refused Plan(s)**

1. The development must be carried out in complete accordance with the following approved documents:

Amended Site Plan received with a scan date of 14.02.17

Reason: In order to define the permission.

#### **Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)**

2. Within 2 months of the date of this approval the 2 fence panels shown on the approved amended site plan adjacent to the driveway with 2 Dunedin Glen and the single fence panel adjacent to the driveway with 12 Mosborough Hall Drive shall be lowered so that no part of these fence panels exceed 1m in overall height as measured from the adjacent footway level. The fence panels shall thereafter be maintained at their approved height and no obstruction to visibility greater than 1m shall at any time be allowed within the splay to the rear of the fence.

Reason: In the interests of the safety of pedestrians and road users.

3. Within 4 months of the date of this approval the external face of the fence shall be stained dark brown.

Reason: In the interests of the visual amenities of the locality

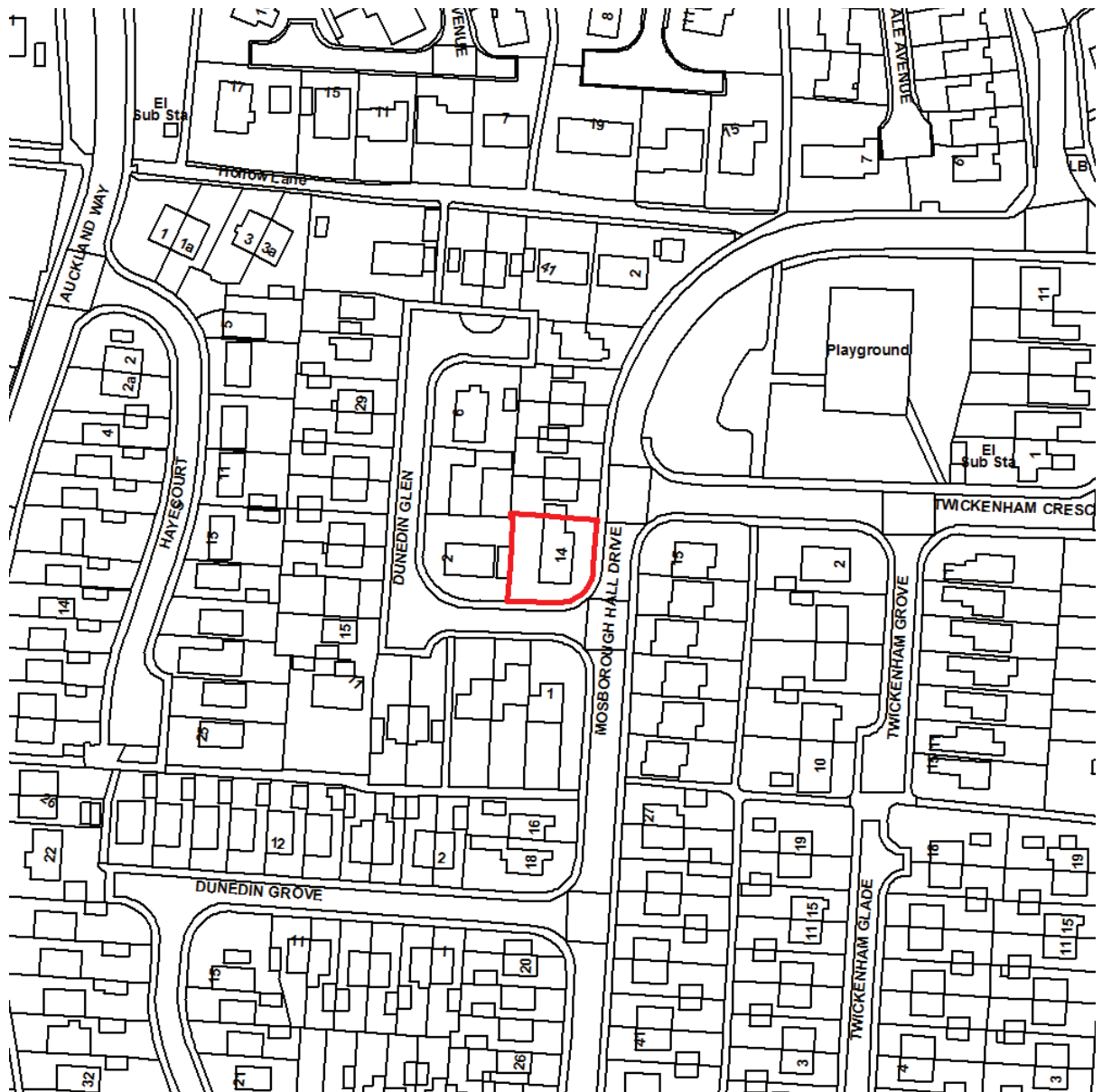
**Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)**

**Other Compliance Conditions**

**Attention is Drawn to the Following Directives:**

1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.

# Site Location



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## LOCATION AND PROPOSAL

The application relates to a detached bungalow located on the corner of Mosborough Hall Drive and Dunedin Glen. The property is located in an established residential area characterised by a mix of a semi-detached and detached dwellings.

The application seeks approval for the retention of a timber fence which has already been erected along the Mosborough Hall Drive and Dunedin Glen highway frontages of the property and returned in part along the side boundaries with neighbouring dwellings.

## RELEVANT PLANNING HISTORY

An enforcement enquiry concerning the fence was received by the Council in August 2016. This application has been made to regularise the fence which requires planning approval where it exceeds 1m in height adjacent to the highway boundary.

## SUMMARY OF REPRESENTATIONS

Eleven objections to the fence have been received from local residents which raise the following issues:

- The fence as built creates a significant highway safety hazard for vehicles reversing off the neighbouring drives causing safety concern for pedestrians, including small children.
- The fence limits visibility at the junction of Dunedin Glen and Mosborough Hall Drive impacting on highway safety. Visibility is further reduced by the applicant parking his van close to the junction.
- There is no reason for the height of the fence to exceed that allowed by Permitted Development. The fence is an eyesore which devalues the area. If the fence is approved it will encourage others to carry out similar development further eroding the character of the area.
- Dunedin Glen was designed as an open plan estate over 40 years ago and the fence is not in keeping with the frontages of surrounding property. Where boundaries have been enclosed this is largely by low hedging maintaining the open nature of the estate.
- The open plan nature of the area has helped to police crime in the area. The high fence creates unlit areas increasing risks to people and property.
- The fence has been built over the legal boundary of the property.
- The fence impacts on the previously open view from property to the other side of the highway.

- The fence which faces Dunedin Glen should be reduce in height to match that facing Mosborough Hall Drive
- The proposed reduction in height of the fence adjacent to neighbouring drive as suggested by planning officers will not improve visibility and will look ridiculous.

One letter of support has been received from the occupier of property to the other side of the highway which looks onto the fence.

## PLANNING ASSESSMENT

### Policy Issues

The application property is sited within a Housing Policy Area as defined by the UDP. The most relevant planning policies in determining this application are outlined in Policy H14 'Conditions on development in Housing Areas'. The policy aims to ensure in part that that new development is well designed, in scale with neighbouring buildings, does not impact on the residential character of the area, provides a safe access to the highway network and does not endanger pedestrians.

### Design Issues

The application property has its principle elevation facing onto Mosborough Hall Drive and benefits from a side garden fronting onto Dunedin Glen. The entire highway frontage of the property was previously open to the highway, with no boundary treatment. As erected the fence which fronts Mosborough Hall Drive is 1.15m in overall height increasing to 1.75m along the Dunedin Glen frontage where it gives privacy to the side garden of the property. The 1.75m high fence returns along the side boundary with 2 Dunedin Glen and a 1.65m high fence runs along the side boundary with 12 Mosborough Hall Drive.

The fence as built comprises vertically boarded hit and miss timber panels set within concrete posts and is of a design which is found enclosing residential gardens throughout the city, including on this estate. It is acknowledged that the higher fence which faces Dunedin Glen forms a relatively prominent structure within the street scene but this is largely due to its newness which gives a stark appearance in the street scene. If planning approval is granted the applicant intends to stain the fence dark brown to reduce its visual impact on the area, in line with other similar fences in the area. This will reduce its visual prominence.

It is considered that subject to the fence being stained a darker colour that its retention would not have an adverse impact on the character and appearance of the area. Within the local area, including in close proximity to this site, there are a variety of highway boundary treatments, some properties retain an open frontage, others low and high hedges and also timber fences of a height comparable to that erected on Dunedin Glen. It is considered perfectly reasonable to want to enclose a corner property which is otherwise very exposed to the highway.



Comment has been made that the area has been designed as an open plan estate. The applicant has confirmed that there is no covenant on his property requiring the property frontages to be left open and the General Permitted Development Order 2015 would permit the erection of a 1m high wall or fence adjacent to the highway boundary without any control by the local planning authority. This fact needs to be taken into account in judging the acceptability of this proposal.

As erected the fence encloses a side garden area of the property which the applicant could reasonably expect to use as a private amenity area. The lower fence to the Mosborough Hall Drive frontage retains an open aspect across the front garden and principle elevation of the property. This element is only just above the height of fence that would not require planning permission in any event.

#### Amenity Issues

As erected the fence raises no overbearing or overshadowing concerns in respect of neighbouring property.

#### Highways

Policy H14 requires development to provide safe access to the highway and not to endanger pedestrians. In this respect it is considered reasonable to require the fence to be lowered adjacent to both neighbouring driveways thereby improving visibility for neighbours entering /leaving their properties and for pedestrians on the adjoining pavement.

The applicant has agreed that if retrospective planning approval is granted that the two fence panels adjacent the corner of the driveway with 2 Dunedin Glen and first fence panel adjacent the driveway with 12 Mosborough Hall Drive will be reduced in height to 1m to comply with permitted development criteria.

With this reduction in height agreed it is considered that the retention of the fence will not endanger pedestrians on the adjoining footway.

Comment has been made that the fence also impacts on the safety of the road junction. Highway officers have visited the site and have confirmed that the fence does not impact on visibility at the junction of Dunedin Glen with Mosborough Hall Drive.

There are no parking restrictions on Mosborough Hall Drive in front of the applicant's property. The applicant is however intending to carry out works in the future to widen his existing driveway which will enable his vehicles to be parked off road.

#### RESPONSE TO REPRESENTATIONS

The concerns regarding highway safety and visual intrusion are dealt with in the main report.

Any deeds or covenants which may restrict boundary heights are not a planning consideration. It is the responsibility of the applicant to ensure that they can legally erect a boundary structure without breaching such rules.

Land ownership disputes are not a planning consideration but constitute a civil matter between the two parties concerned. As far as the application is concerned the applicant has confirmed that the fence has been sited on land in his ownership and has signed the requisite ownership certificate as required by the planning legislation. The Council does not have detailed property records for privately owned properties.

There is no reason to believe that the fence would lead to an increase in crime in the area. It is of a similar height to existing fences throughout the city.

There is no right to a view over land from any of the neighbouring properties.

#### SUMMARY AND RECOMMENDATION

The application seeks approval for the retention of a fence built adjacent to the highway boundary. The fence is required to give privacy to a side garden of the application property and a sense of enclosure to the frontage.

Subject to the fence being stained a dark colour and the fence panels adjacent to the neighbours' driveways being reduced in height, the retention of the fence is considered to be acceptable and in line with adopted planning policy.

The application is recommended for approval subject to the listed conditions.

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Case Number	16/03932/FUL (Formerly PP-05499498)
Application Type	Full Planning Application
Proposal	Installation of a biomass boiler with chimney flue extending 3.5 metres above the ridge height of the building including installation of an associated drying unit and ducting to the western elevation for drying of agricultural products and heating of dwellinghouse, workshop and office buildings only - AMENDED DESCRIPTION
Location	Prospect Farm Kirk Edge Road Sheffield S6 6LJ
Date Received	18/10/2016
Team	West and North
Applicant/Agent	The Arley Consulting Company
Recommendation	Grant Conditionally

### **Time limit for Commencement of Development**

1. The development shall be begun not later than the expiration of three years from the date of this decision.

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

### **Approved/Refused Plan(s)**

2. The development must be carried out in complete accordance with the following approved documents:-

Drawing No. 16784/01 (Site Location Plan);  
Drawing No. 16784/03 (Proposed Elevations);  
Drawing No. B-GEN - MHH1 (Proposed Layout)  
Environmental Risk Assessment - (Arley Consulting Company Limited - Report No. 16784/1B - January 2017)

received on the 24 October 2016 and 23 January 2017 from The Arley Consulting Company Limited.

Reason: In order to define the permission.

**Pre Commencement Condition(s) – ('true conditions precedent' – see notes for definition)**

**Other Pre-Commencement, Pre-Occupancy and other Stage of Development Condition(s)**

3. The external flue shall be finished in a dark matt colour, the details shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter the flue shall remain this colour unless first receiving the written

Reason: In the interests of visual amenity

**Other Compliance Conditions**

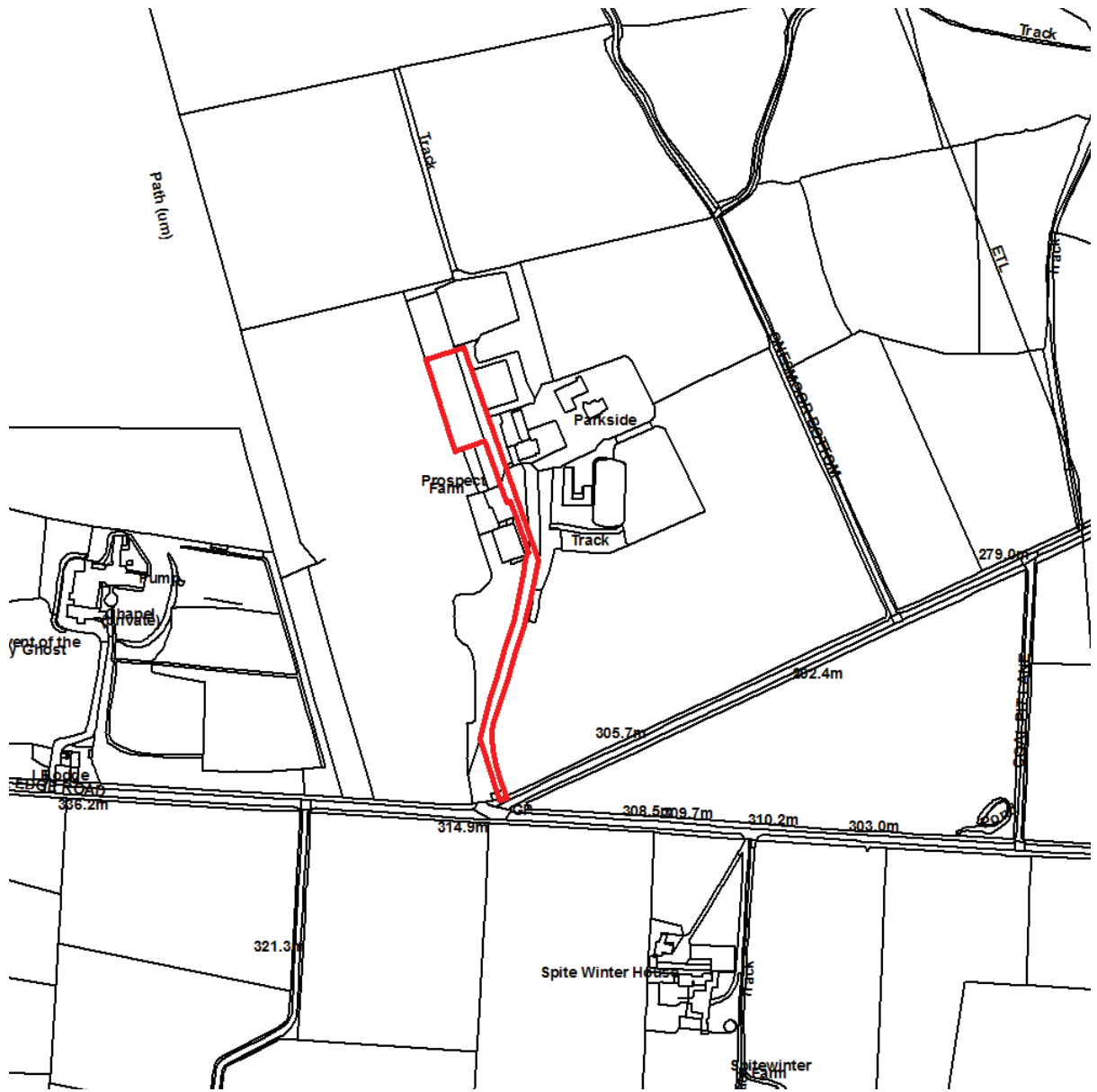
4. The biomass boiler and drying unit shall be housed and operated within the existing building, as shown on the site plan and as described in the Environmental Risk Assessment Report No 16784/1 submitted to and approved by the Local Planning Authority.

Reason: In the interests of the amenity of the locality and neighbouring properties

**Attention is Drawn to the Following Directives:**

1. Boiler and drying unit plant and associated equipment shall be designed and operated so as to ensure that the total LAeq plant noise rating level (including any character correction for tonality or impulsive noise) does not exceed the LA90 background noise level at any time when measured at positions on the blue line site boundary adjacent to any nearby noise sensitive use.
2. The applicant is advised that the process applied for is prescribed for control under the Pollution Prevention and Control Act 1999 and therefore requires a separate Environmental Permit from Sheffield City Council. It is an offence to operate such a process without a permit. Further advice can be obtained from SCC Environmental Protection Service on Tel. (0114) 273 4651, or by email at [eps.admin@sheffield.gov.uk](mailto:eps.admin@sheffield.gov.uk).
3. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.

# Site Location



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## LOCATION AND PROPOSAL

The application relates to Prospect Farm, an agricultural holding and industrial enterprise that is situated along the northern side of Kirk Edge Road, near its junction with Burnt Hill Lane in High Bradfield. The application site is located in a fairly remote location with no immediate neighbouring properties. The Convent of Carmel of the Holy Spirit lies approximately 260m to the west of the site, Spitewinter Farm approximately 420m to the south-east, Burnt Hill Farm, some 560m to the east and Primrose Cottage, some 540m to the south-east. Bradfield School is situated approximately 1.3km to the east of the site.

The farm is accessed via a long shared driveway that also serves two dwellinghouses (Prospect Farmhouse and Parkside) that are also within the ownership of the applicant (MHH Biomass Boilers). The farm holding is made up of several buildings that include a 9.5m high shed, some 50m in length, workshop and office buildings and various animal pens and stalls that are used in connection with the applicant's farm and aggregate business. On site, evidence of the applicant's industrial business can be found with stock piles of stone and brick and other building materials.

The site is situated in the Green Belt and lies within an Area of High Landscape Value (AHLV). The site is also situated on the edge of the Sheffield Air Quality Management Area (AQMA).

Planning permission is being sought to install a biomass boiler with a 3.5m high chimney flue within the large shed. In connection with the biomass boiler, approval is being sought for a drying unit and ducting to the western elevation of the shed. The biomass boiler is being sought for the drying of agricultural products and the heating of dwellinghouse, workshop and office buildings. At the time of officers' site visit in December 2016, the biomass boiler had been installed on site, although the biomass boiler was not operational. Prior to the officer site visit, the flue that had initially been erected had been dismantled.

The application is supported by an Environmental Risk Assessment (Report No. 16784/1B) prepared by Arley Consultants Ltd.

## PLANNING PROCEDURE

The scope of the application has changed from that originally submitted in October 2016 following the applicant's decision to remove aggregate drying in connection with the installation of the biomass boiler. This is set out in the e-mail received on the 12/01/17 from the applicant's agent. Following this decision, all properties initially consulted were re-consulted as well as residents, who were not initially consulted but had previously made representation on the application.

## RELEVANT PLANNING HISTORY

Prospect Farm has been subject to several planning applications as well as enforcement enquiries dating back to 1984. While none of the planning applications are considered to be specifically related to the application to install a biomass boiler on the site, an enforcement enquiry (15/00604/ENBC), in 2015 is considered to be relevant, which related to an allegation that the site was being used for the depositing and storage of

materials in connection with the applicant's aggregates business. Following an investigation by officers, it was concluded that there was no apparent breach of planning on site with photographic evidence being shown to officers that the site had been used for an aggregates business for a period in excess of 10-20 years. This was further evidenced from historic aerial views taken from Google Earth of the site that Prospect Farm had been used for commercial activities associated with an aggregates business for a considerable period of time. It was accepted by officers that by virtue of the 10-year rule\*, the industrial use of the site was lawful and therefore immune from enforcement action. \*If operational development has been taking place for a period of 10 years without enforcement action having taken against the use, then it becomes lawful by virtue of s.171B(2) of the Town and Country Planning Act 1990. The applicant was advised by officers at that time to apply for a Lawful Development Certificate but this was never submitted.

## SUMMARY OF REPRESENTATIONS

A number of representations have been received in response to this application. These have been received from Bradfield Parish Council, Loxley Valley Protection Society (LVPS) and the National Park Authority. Representations have also been received from residents of 24 properties, some of these have written in more than once. As detailed above, there have been two rounds of consultation, the second round following the applicant's decision to remove the drying of aggregates from the application. A summary of all the comments received are listed below:-

### Objection (21)

- There are ample agricultural buildings at the farm to house any produce of the farm keeping it protected and dry thus further drying is not required.
- The amended scheme is a significant move from the scheme initially submitted and query whether the biomass boiler would not be used for the drying of aggregates as first submitted;
- Increased traffic and highway safety; The adjoining highway network is unsuitable for the movement of heavy vehicles (HGVs); It is advisable that the Council does some sort of monitoring of the heavy traffic on this road;
- Air pollution;
- Noise Issues;
- Ecology issues;
- The consultation carried out should have been wider;
- Prevailing winds will blow any dust/combustion particulate down valley towards Worrall/Bradfield School – health and quality of life issues for all residents in the those areas;
- No details provided of delivery times of vehicles that would serve the biomass boiler;
- No benefit to the local economy;
- Harmful to the open character of the Green Belt;
- Impact on wildlife;
- The Aga technical department has stated that do not make produce anything in their range of products that does or can be run by a Biomass boiler and that old Agas cannot be converted to run on biomass produced heat;
- The amount of aggregate being stored at Prospect Farm has increased over the years.
- There is a constant flow of Hague Plant and MHH lorries along the adjoining highways;
- Increased pollution from traffic;

- Industrial uses such as this should be confined to industrial sites in Sheffield and not in the Green Belt.

The residents of sixteen properties made further representation following the changes made to the application. The residents of these properties indicate that their objections initially submitted remain but also include the following:-

- Sceptical whether the biomass boiler would not be used for the drying of aggregates despite the applicant's agreement to limit the use of the biomass boiler for the drying of agricultural products and the heating of dwellinghouse, workshop and office buildings;
- No need to have a 1 MW (999kW) heater, on for 75% of the year, to run on wood chips, for sporadic farm drying use, and some basic building heating. The size of the boiler installed strongly suggests practically full time industrial use;

Bradfield Parish Council has made comments neither objecting to or supporting the planning application, although state that the proposed activity will be industrial and not agricultural.

Loxley Valley Protection Society (LVPS) has raised an objection to the application stating that the amended proposal does not change their previous objection to the application.

- The applicant submitted two applications for biomass boilers to dry aggregate in tandem. The other, 16/03931/FUL at 402 Petre St was recently granted, giving capacity for this industrial activity in a more suitable setting. To now change the use of the boiler at Prospect Farm to agricultural has provoked some scepticism among some objectors;
- The required biomass boiler at Prospect Farm seems rather large to now just be used for the suggested building heating and possibly unsuitable for the drying of agricultural products, which are produced on the Farm;
- We seek reassurances that the use of the plant is conditioned so that the use will not result in large traffic movements of lorries on the local narrow road system, to bring in the chips or any other imported materials to be dried;
- It should not be allowed to revert to the first proposed industrial usage once granted for agricultural use;
- Concerns about air pollution, and possible reverting to an industrial usage remain.



The National Park Authority has stated that their comments are made on the basis that the site benefits from a lawful use for this purpose as detailed on the supporting application form. It is noted however that a number of representations state that the lawful use of the site is for agricultural purposes only. The significant external change is the flue, which would have a total height of 13m, which would extend 3.5m above the ridge height of the existing building. The proposed flue would be visible from the public footpath within the National Park, some 370m to the west of the site. However, it is considered that the visual impact of the flue would not be visible. Similarly, views looking towards the site and the National Park from the east (from the highway known as Onesmoor Bottom), the flue would be seen at distance and in the context of the existing buildings. Based on the above, the National Park Authority has no objection to the proposed development but would recommend that the flue is finished a dark matt colour to avoid reflections which could draw attention to it.

## PLANNING ASSESSMENT

It is considered that the main issues relevant to this application are as follows:-

- (i) The Principle of Development – Policy and Land Use
- (ii) Highway Issues;
- (iii) Visual Amenity Issues and impact on the openness of the Green Belt;
- (iv) Other Amenity Issues - Noise and Air Quality; and
- (v) Other Issues

### (i) Principle of the Development – The Principle of Development – Policy and Land Use

As detailed above, during the course of the application, the applicant decided to amend the proposal not on the advice of officers but for reasons that the drying of aggregates seemed to be the greatest cause for concern amongst residents. As amended, the proposed biomass boiler is now being sought solely for the drying of agricultural products and the heating of dwellinghouse, workshop and office buildings at Prospect Farm and not for aggregates. Although officers acknowledge the concerns raised by a number of residents that the true purpose of the biomass boiler is for the drying of aggregates in connection with the industrial use of the site, it is not appropriate to simply assume that this is what it will be used for. If this is the intended use of the biomass boiler, this would of course be subject to a separate application and not a matter that should be considered under this application. The application should therefore be based solely on the amended scheme and not what some people assume will happen. To do so would be inappropriate and likely to make the decision challengeable.

The applicant has stated that the biomass boiler would be used to dry agricultural products which are generated on the farm, which will include the following:

- Drying cattle bedding for 100 head of cattle housed on farm. Straw is baled at harvest time and stored outside and then dried off on the drying floor before being used;
- Drying hay as this is harvested at summer and can often be wet therefore it will be dried on the drying floor;
- Drying haylage which is harvested and stored in plastic outside over winter and dried on the drying floor before being fed to animals;
- Drying wheat at harvest time which is then stored in the barn over winter ;

- Drying oilseed rape at harvest time which is then stored in the barn over winter;
- Drying wheat at harvest time which is then stored in the barn over winter;
- Drying barley at harvest time which is then stored in the barn over winter;
- Drying oats at harvest time which is then stored in the barn over winter;
- Drying sawdust to provide animal bedding - this sawdust will be a useful agricultural by product of the imported woodchip as the sawdust will be segregated off from the woodchip loads brought to site then used as animal bedding after being dried;
- Drying woodchip feed for the boiler – imported woodchip will be dried before feeding into the boiler as the lower the moisture content the higher quality of the fuel and it will burn more efficiently

The biomass boiler will also replace the 4 existing oil fired boilers at the farm and run the AGAs in the farmhouses and will be the main source of heat for the farmhouses of Prospect Farm and Parkside. It will be the sole heat source for the workshop and office buildings at the farm.

The applicant has further asserted that the biomass boiler is a cleaner, more efficient way of generating energy than the oil fired boilers. The boiler is automatically controlled to minimise emissions and is fitted with an exhaust gas cyclone to remove particulates from the exhaust stream. Using waste wood is also considered a renewable energy source, reducing the usage on fossil fuels which contributes to the UK Government targets to reduce fossil fuel reliance and increase the use of renewable energy. These are the merits of the proposal and the applicant is concerned that they are being lost in concerns over the use of the drying floor for non-agricultural products, hence the reason for the restriction outlined above.

The details of the proposed boiler and associated drying unit are set out in the supporting Environmental Risk Assessment (Ref No 16784/1B) Arley Consulting Company, January 2017) that was commissioned by the applicant. The boiler would burn woodchip in a 999 kW Arterm Boiler with a single flue that would project 3.5m above the building's ridge. The boiler has been supplied and installed by Barden Energy, who has a clean air exemption certificate.

In officers' opinion, based solely on its use for the drying of agricultural products and the buildings at Prospect Farm, the installation of the proposed biomass boiler is considered to be acceptable and would represent an appropriate means of generating energy in a sustainable manner in line with government guidance contained in NPPF. Paragraph 98 of NPPF details that when determining planning applications, LPAs should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Biomass boilers are considered to be an excellent form of sustainable energy and are viewed by many including the government to be a means of reducing the reliance on fossil fuels such as coal and oil.

(ii) Highway Issues

The supporting Environmental Risk Assessment (ERA) details that approximately 1 load of woodchip will be received each day. Following the amendment of the application to remove the drying of aggregates in connection with the biomass boiler, it is considered that the amount of additional vehicle movements specifically related to the operation of the boiler would be low and not significant that would result in any harm to highway safety.

Concerns raised with the existing operations at Prospect Farm and the movement of aggregates is not considered to be material to the application and should be disregarded.

(iii) Visual Amenity Issues and impact on the openness of the Green Belt

The application site should be assessed against Policies GE2 and GE4 of UDP on account of the location of the site in the Green Belt.

Policy GE2 states that in the Green Belt, measures will be taken to maintain and enhance those areas with a generally high landscape value and improve poor landscapes in priority areas. Policy GE4 states that the scale and character of any development which is permitted in the Green Belt, or would be conspicuous from it should be in keeping with the area and wherever possible, conserve and enhance the landscape and natural environment.

Government guidance is contained within National Planning Policy Framework (NPPF). It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics being their openness and their permanence.

It is considered that the only implication of the proposed biomass boiler on the open character of the Green Belt is the proposed flue extraction feeding off the biomass boiler. The plans and supporting ERA detail that the proposed flue would project 3.5m above the ridge height of the building; the height of the flue being determined by atmospheric dispersion modelling.

Officers acknowledge that the flue would be visible when looking back at the site in particularly from views from the east from Onesmoor Bottom and Old Lane. However, officers remain satisfied that any impact on the openness of the Green Belt would not be significant that would warrant the application to be refused. The building on which the flue would be installed is situated some distance from the two neighbouring highways, measured at some 325m from Kirk Edge Road and 250m from Onesmoor Bottom. It is also considered that the flue would be seen in context with the existing buildings at Prospect Farm and would not appear isolated that would diminish the openness around and through the site. The height of the flue as detailed in the supporting ERA is fixed at 3.5m above ridge height to achieve the necessary dispersion, so while it would be preferable to lower its height, this is not achievable as it would prevent adequate dispersal of fumes. Officers would agree with the Parks Authority's views on muting the colour of the flue, and recommend that a condition be attached that requires the flue to be finished in a dark matt colour to avoid reflections that could draw attention to it. Subject to this condition being attached, it is considered that any impact on the openness of the Green Belt would be minimal. It is

(iv) Other Amenity Issues - Noise and Air Quality

As detailed above, the boiler would burn woodchip in a 99 kW Arterm Boiler with a single 3.5m high flue. The biomass is expected to operate for 6,570 hours per year, which equates to approximately 75% of the time. Stack emissions analysis conducted in August 2015 on a 999 kW Arterm Boiler identified that the substances emanating from the boiler that include carbon monoxide and oxides of nitrogen fell below DEFRA emissions limits. In

the emissions report it was stated that there was no visible plume from the boiler flue. This is expected as the boiler has a DEFRA clean air exemption certificate which allows its use to burn unauthorised fuel, in this case wood in smoke control areas.

The Environmental Risk Assessment (ERA) details that odours from the boiler is not considered to be a hazard as there are no sources of odour identified. The risk of atmospheric pollution from point source from emissions was deemed to be high on account of the site's location within an AQMA. Atmospheric dispersion modelling has been carried out to inform the necessary flue height of 3.5m above ridge for adequate dispersion. The risks from other sources of dust and from noise and vibration were assessed as low due to the use of the building for storage and boiler housing. The ERA concludes that the risks presented by operation of the biomass boiler with waste wood can be controlled through management and mitigation to reduce the impact on the surrounding environment, so that all residual risks are low.

Environmental Protection Service has stated that the biomass boiler installation will be subject to regulatory control under an Environmental Permit issued in accordance with Environmental Permitting Regulations, which will be administered by EPS. The Environmental Permit will be the primary route to manage any air quality issues, visible emissions, or issues around dust and particulate emissions from the process EPS has recommended a single condition that requires the biomass boiler and drying unit to be housed and operated as described in the Environmental Risk Assessment Report. The Council's Air Quality Officer has confirmed that the submitted AQA is acceptable and that there are no air quality grounds to resist the application.

EPS are assured by the inclusion of both of the nearest 'on site' properties, as the full mitigation of all amenity impacts for these addresses would be difficult. EPS are also satisfied that the site is sufficiently distanced from other properties outside the confines of Prospect Farm for noise not to be a serious issue off site. Any amenity impacts at Prospect Farm or, to a lesser degree, at Parkside due to noise, will be a matter for the applicant, but is not likely to be of a severity that would be deemed a health risk. The residual risks to occupiers of the two on-site properties may, in my opinion, be adequately managed by the following recommended controls.

As previously stated, air quality considerations including boiler emissions from the stack and fugitive dust emissions are subject to control via the Environmental Permit. The installation site does not fall within SCC's Clean Air Act designated Smoke Control Area, though the appliance is listed as certified exempt for use with an unauthorised fuel (wood chippings) in such an area. Visible smoke emissions are therefore not anticipated outside the initial light up period of the appliance's operation.

The Council's Air Quality Officer carried out an assessment of the application, by means of Airviro dispersion modelling and with particular regards to the likely impact of the fine particulate matter (PM<sub>10</sub>) and nitrogen dioxide (NO<sub>2</sub>) emissions on local air quality. He has confirmed that the predicted ground level concentrations, of these pollutants: PM<sub>10</sub> (<0.3ug.m<sup>-3</sup>) and NO<sub>2</sub> (<1.7ug.m<sup>-3</sup>) at the highest points within the vicinity of the Boiler building, are sufficiently low not to warrant a resistance to the application. Furthermore, given that the background concentrations of these pollutants in the vicinity of the proposed Biomass Boiler is less than 21ug.m<sup>-3</sup>, well below their health-based national annual

average concentrations and EU limit values of  $40\mu\text{g.m}^{-3}$ , he details that there is no further reason to object to this application.

(v) Other Issues

Some concerns have been raised that the proposed development would have impact on ecology. While these comments are noted there is little evidence to suggest that the operations of the biomass boiler would result in any harm to ecology or wildlife. SCC Ecology Unit was consulted on the application and has stated that they have no objection with the proposed installation of the biomass boiler.

## SUMMARY AND RECOMMENDATION

For the reasons set out in the report and taking in account all other matters, it is considered that the proposal to install a biomass boiler at Prospect Farm represents an appropriate form of development and would be in general accordance with UDP Policies GE2 and GE4 and Core Strategy CS66.

Although several concerns have been raised with regard to the application, some of which relating to whether the biomass boiler would be used in connection with the drying of aggregates at Prospect Farm, which by doing could result in the intensification of industrial activities on site, officers remain satisfied that the installation of the biomass boiler would not result in any significant impact on air quality or noise disturbance that would be harmful to the residential amenity of neighbouring properties. Others also remain satisfied that any additional vehicles associated with the development would not result in any significant harm on the highway network or road safety. It is accepted that the erection of a 3.5m high flue above the existing ridge of the building would have some impact on the openness of the Green Belt, but given that the proposal is for a single flue only, the distance of the flue from the surrounding highways being in excess of 250m and that the flue would be seen in context with the site's existing buildings, it is considered that any harm to the surrounding open countryside would be minimal. As suggested by the National Parks Authority, it is recommended that a condition be attached that requires the flue to be finished in a dark matt colour to avoid reflections which could draw attention to it.

It is therefore recommended that planning permission be granted subject to the conditions listed.

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Case Number	16/02627/FUL (Formerly PP-05305309)
Application Type	Full Planning Application
Proposal	Demolition of existing garage and erection of a new dwellinghouse (Amended Plans)
Location	Land Rear Of 45 To 47 Rodney Hill Occupation Lane Loxley Sheffield S6 6SB
Date Received	08/07/2016
Team	West and North
Applicant/Agent	Space Studio
Recommendation	Refuse

**Refuse for the following reason(s):**

- 1 The Local Planning Authority considers that the proposed development would have a detrimental effect upon the trees protected by the Tree Preservation Order during the construction process due to the restricted nature of the site, the sole access being so close to the protected trees and the amount of earth works needed to facilitate the development. The proximity of the trees to the proposed dwelling may also result in future calls for the trees to be heavily pruned or removed on the grounds of damage to property. As such the development would be contrary to UDP Policy GE15 and the aims of the National Planning Policy Framework.
- 2 The Local Planning Authority considers that the proposed development would result in the overdevelopment of a plot which would be detrimental to the visual character and amenity of the immediate area and the amenities of the neighbouring properties. The new dwellinghouse would not be in keeping in terms of scale and massing with neighbouring properties and would impact upon the amenity of occupiers of neighbouring dwellings. The development is therefore contrary to Policies H14 and BE5 of the Unitary Development Plan as well as the aims of the National Planning Policy Framework.

**Attention is Drawn to the Following Directives:**

1. The applicant is advised that this application has been refused for the reasons stated above and taking the following plans into account:

Drawing Nos

A15 - 141/01 - Rev A Red line boundary

A15 - 141/02 - Rev C Proposed Ground Floor and Roof Plan

A15 - 141/03 - Rev C Proposed Front and Rear Elevations

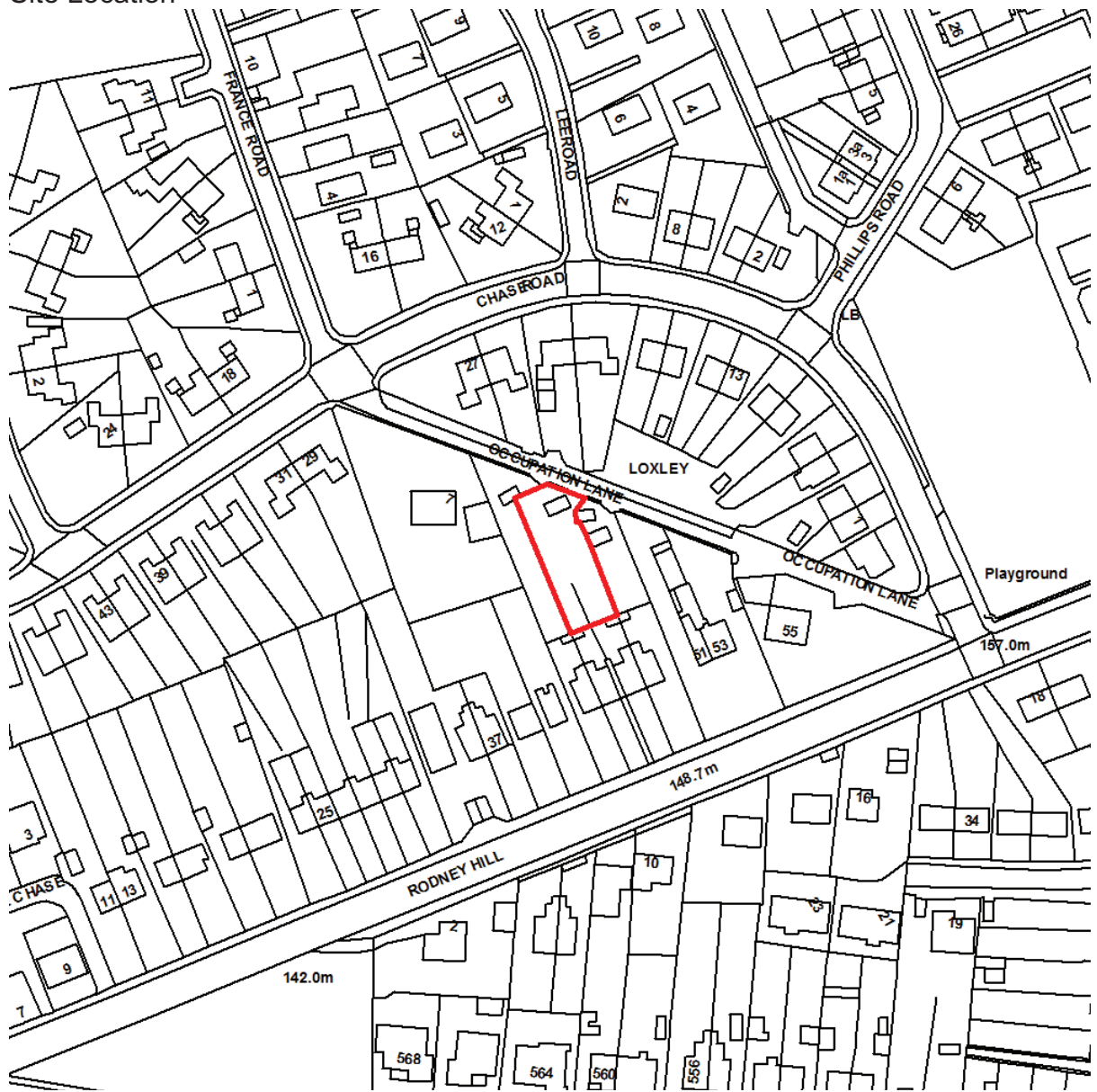
A15 - 141/04 - Rev C Proposed Long Elevations

A15 - 141/05 - Rev A Proposed Site Layout Plan

A15 - 141/06 - Rev C Proposed Long Elevations

2. Despite the Local Planning Authority wishing to work with the applicant in a positive and proactive manner, the application is considered contrary to policy requirements(s), and, there being no perceived amendments(s) that would address these shortcomings without compromising the fundamental intention of the scheme the Local Planning Authority had no alternative but to refuse consent.

Site Location



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## LOCATION AND PROPOSAL

The application relates to land to the rear of 45 – 47 Rodney Hill, the frontage properties being traditional stone fronted semi-detached and terraced dwellings. The land rises up from Rodney Hill to Occupation Lane to the north from where access into the site would be taken.

Planning permission is sought for the erection of a dwellinghouse. This would be single-storey and dug into the site with a brown roof. Along the site boundaries to either side a stone wall is proposed with existing trees along the boundary with No.45 and 47 indicated to be retained to provide screening.

The development would provide two off-street parking spaces in the proximity of the existing garage which is to be removed.

The site is identified on the Unitary Development Plan Proposals Map as being within a Housing Area. Within northern boundary of the site are three sycamore trees which are protected by Tree Preservation Order (TPO).

## RELEVANT PLANNING HISTORY

The site has extensive planning history.

In October 1994 outline planning permission was granted for the erection of a dwellinghouse with all matters reserved for subsequent approval (application 94/01608/OUT, formerly 94/01027P refers).

In 1999 planning permission was sought for the erection of dwellinghouse and this was refused (application 99/00850/FUL refers). An appeal against this refusal was also dismissed. Between the time of the outline approval and the submission of the application in 1999 a group of sycamore trees adjoining Occupation Lane had been protected by way of a Tree Preservation Order. The Inspector felt this change in circumstances to be sufficient to warrant a refusal of the application and was also of the view that the site had other marked shortcomings as the location for a new house; having an overbearing and unneighbourly impact upon adjoining residential property.

In 2011 a further application was refused and an appeal dismissed for the erection of a dwellinghouse (application 11/01115/FUL refers).

Most recently in 2014 a further application for a dwelling on the site was refused and the appeal dismissed (application 14/00701/FUL refers). This was for a two-storey property, dug into the hillside with a flat roof, to try and minimise the impact of the development.

## SUMMARY OF REPRESENTATIONS

There have been two periods of public consultation, initially when the application was submitted and more recently following the receipt of amendments to the plans.

12 representations from local residents were received objecting to the proposal during the first round of consultation. These raised the following issues:

The lane (Occupation Lane) is not suitable for heavy traffic, in particular construction vehicles.

The development would intensify the use of what is at present a green lane, used by many pedestrians.

The current application appears to seek to address previous concerns; however it would still have an unacceptable overbearing impact upon neighbouring properties.

The TPO'd trees serve as a local landmark and their loss would greatly affect the character and appearance of the area.

The trees that are proposed to form a screen between the development site and the properties on Rodney Hill have been heavily pruned/ removed and so overlooking would occur.

There have been drainage issues in the past within the vicinity of the site (burst sewers) and the proposed development would be likely to increase run-off and affect the water table.

The development would be out of keeping with the area and would appear to be cramped onto the site.

The proposal would result in unacceptable levels of overshadowing and loss of light to neighbouring homes and gardens.

The garden area of the proposed new house is now only half of that which was judged to be inadequate by the Planning Inspector in 2015.

The new dwellinghouse would not afford occupiers, satisfactory amenity in terms of outlook and the property would be dark.

The development would be within the root protection zone of the protected trees and given the confined nature of the site the development would be likely to adversely impact upon them. Even if the trees are not damaged as a result of building works there may be calls for their removal by future occupants.

The development would introduce light into an area that is currently dark at night.

In addition the Loxley Valley Protection Society have also objected setting out that through the planning history various Inspectors have been of the view that the site is not suitable for development. They set out that the trees have grown considerably and so any root protection areas will also be larger, making it highly likely that development would adversely impact upon the trees. The LVPS re-iterate the views of local residents summarised above.

Bradfield Parish Council have recommended that the application be refused on the grounds of the planning history, the overbearing nature of the development given the proximity to common boundaries, overlooking / loss of privacy, potential loss of trees and the impact upon bio-diversity.

As a result of a second round of consultation 11 representations have been received. These include representations from Bradfield Parish Council and Loxley Valley Protection Society. These re-iterate the previous concerns and maintain the objections to the proposed development.

## PLANNING ASSESSMENT

### Principle of Development

The site is identified on the Unitary Development Plan Proposals Map as being within a Housing Area.

UDP Policy H10 sets out that within such areas housing is the preferred use, subject to compliance with other policies including UDP Policy H14 – Conditions on Development in Housing Areas.

Policy H14 sets out that new development will be permitted provided that new buildings are well designed and would be in scale and character with neighbouring buildings; that the site would not be overdeveloped or deprive residents of light, privacy or security or cause serious loss of existing garden space which would harm the character of the neighbourhood. The policy also stipulates that development shall provide safe access to the highway network and appropriate off-street parking.

Core Strategy Policy CS23 – Locations for New Housing sets out the intention that new housing will be concentrated where it will make efficient use of land and infrastructure and in the period 2008/09 to 2020/21 the main focus will be on suitable, sustainably located sites within or adjoining the main urban area of Sheffield.

In principle the site would be complicit with Policies H10 and CS23. Compliance with UDP Policy H14 will be considered later in the report.

### Impact Upon Character

To address previous concerns regarding the impact the development would have upon the character and appearance of the area the applicant is seeking consent for a property that would be dug into the hillside to such an extent that it would not be visible from Occupation Lane. Additional landscaping is proposed to soften the appearance of the scheme from this view point and a brown roof is proposed.

A report by Anderson Tree Care has been submitted in support of the application. This sets out a methodology for development and sets out that 'the following precautions will *reduce* the risk of the trees being damaged.' The report conceded that the site is small with little room for the storage of materials or machinery and

development would have to proceed on a cautious basis with hand tool necessary for the removal of the garage and formation of the parking area to prevent significant damage to tree roots. It concludes that if the measures set out in the report are adhered to 'the chances of successfully retaining these trees ... are reasonable.'

The trees in question are protected by way of a TPO and do contribute greatly to the character and appearance of the lane as well as the greater surrounding area. Given the amount of earth that would have to be removed to facilitate the development, the restricted nature of the site and that Occupation Lane is the sole means of access into the site it is maintained that development would be likely to impact upon the root protection area of these trees and, although the new property would not have any windows on the elevation facing towards the trees, the close proximity may result in calls in the future for their removal on the grounds of damage to property.

In dealing with the previous appeal the Inspector took the view that the trees make a significant contribution to the character and appearance of the area. Paragraph 1.7 of the appeal decision sets out that 'whilst conditions could be used to ensure the construction did not impact on the root protection areas, there is no substantive evidence to show that this would be possible whilst providing adequate access to the site for construction vehicles and machinery.' The Inspector was not persuaded that construction could take place without having an adverse impact on the trees.

The development would still be relatively close to the trees with no other means of access to the site. It is maintained that the development would be likely to have an adverse impact upon the trees and as such the wider character and appearance of the area.

UDP Policy GE15 – Trees and Woodland sets out that development will not be permitted which would damage existing mature trees. The development is considered to be contrary to this policy.

Policy CS26 'Efficient Use of Housing Land and Accessibility' states out that housing development will be required to make efficient use of land but that the density of new development should be in keeping with the character of the area and support the development of sustainable, balanced communities. The density in this area should be 30-50 dwellings per hectare.

The density of development would equate to 26 dwellings per hectare and so, on paper the site would appear to be of adequate size to accommodate a dwellinghouse. This does not however take into account the topography of the site or the character of surrounding properties. These are generally set back from Rodney Hill with long rear gardens which slope up the relatively steep hill to Occupation Lane. As the proposed property is single-storey it has a sizeable footprint which takes up much of the site. The rear garden of the property would provide over 75sqm of useable open space.

In dealing with the previous appeal the Planning Inspector took the view that 'the amount of external space would be more than that required by the Council's

standards. Nevertheless, given that properties in the area are generally set in long narrow plots with generous sized gardens to the front and / or rear, the much more limited space around this property, especially to the front and sides, would make the site appear over-developed and cramped in comparison to the character of surrounding properties.'

The Inspectorate went on to state: 'Whilst there is another dwelling to the north west of the site which is only accessed from Occupation Lane, this property is set in a large plot with generous garden space to all sides. As a result it contributes to the green and spacious character of the lane in a way that the appeal scheme would not.'

The dwelling proposed by the previous application to which the Inspector refers had a smaller footprint than the current proposal and so it is considered that these comments are still of relevance.

The design of a single-storey property is borne out of the desire to develop the plot, rather than to be in keeping with the character and appearance of the area. It is considered that the proposal would not be in keeping with neighbouring properties and would be likely to have an adverse impact upon the character and appearance of the area, contrary to UDP Policy H14 as well as UDP Policy BE5, which sets out that new buildings shall complement the scale, form and architectural style of surrounding properties. The development would also be contrary to Core Strategy CS26 in that it would be out of character with neighbouring properties.

#### Impact Upon Residential Amenity

The proposed dwellinghouse would be built into the site with a stone wall along each side boundary of between 1.6 – 2m in height. No windows are proposed on the southern end of property closest to the rear of the dwellings on Rodney Hill and there would be a distance of 31m from the living room to the rear of properties on Rodney Hill. Bedroom windows on the side elevation would face west towards the boundary wall at a distance of 4m. The outlook from these windows would not be great, however it is considered that, on balance this would not be a valid reason for refusal of the application as the main living area would have a satisfactory outlook.

It is considered that no direct overlooking to neighbouring dwellings would be likely to occur from within the property itself.

The submitted plans indicate that the southern boundary of the site would take the form of existing trees which would provide screening. These have subsequently been removed / heavily pruned. If planning permission is to be granted it is recommended that a condition be imposed to ensure that some form of solid screening be provided to prevent overlooking from the garden to the properties on Rodney Hill.

Given the sloping nature of the site people using the garden areas would be likely to be overlooked and could in turn look towards the frontage properties. The applicant has stated that the brown roof would not be used for amenity purposes (i.e. it would not be used as a raised terrace); however in reality there is nothing to

stop residents from going onto the roof and the imposition of a condition requiring it only to be used for maintenance purposes may be hard to police and enforce.

Even if people using the new development were not to be seen there would still be a presence at the bottom of the gardens on the properties on Rodney Hill. Noise and comings and goings from the property, together with light spill would all impact upon the amenity of residents. It is considered that, on balance, the proposal would have an impact upon the amenity of occupiers of neighbouring dwellings.

The development would in places poke above the level of the boundary walls; however as the neighbouring dwellings are set to the south it is considered that the development would not give rise to unacceptable levels of overshadowing or loss of light to neighbouring dwellings.

### Highways

The proposed development raises no highway safety concerns. The proposed development would not give rise to significant levels of additional traffic and would be unlikely to compromise pedestrian safety. The plans indicate that two off-street parking spaces would be provided and this is deemed to be adequate.

### SUMMARY AND RECOMMENDATION

Planning permission is sought for the erection of a single dwellinghouse on a steeply sloping site to the rear of properties on Rodney Hill. The site would be accessed from Occupation Lane where there are three sycamore trees protected by way of a Tree Preservation order. These trees contribute greatly to the character and appearance of the area.

The proposed dwellinghouse would be single-storey and set into the hillside to prevent direct overlooking from windows as well as any overbearing impact.

The site has been the subject of numerous applications and several appeals, which have been dismissed.

There is no degree of certainty that development could be carried out that would not have an adverse impact upon the protected trees. The tree report submitted in support of the application sets out various precautionary measures that would be necessary to facilitate development and even then the likelihood of the trees being unaffected is only given as reasonable.

Given the restricted dimensions of the site and the amount of earth works necessary to set the property down into the hillside it is considered that the development would impact upon these trees and the wider character of the area.

The proposed dwelling, being single-storey and set into the site would not be in keeping with the character of neighbouring dwellings, which are generally characterised as two-storey properties set back from the road frontage with long narrow gardens.

It is considered that on balance the proposed development of the site would have an adverse impact upon the character and appearance of the area and would be contrary to UDP Policy GE15, BE5 and H14.

It is accepted that the proposed development would not result in direct overlooking from windows to windows; however it is considered that the development would impact upon the amenity of occupiers of neighbouring properties in terms of increased noise and general disturbance, light spillage and potentially the use of the brown roof as a raised terrace. In this respect it is also considered, on balance that the development would be contrary to UDP Policy H14.

The proposed development would assist in meeting the 5 year housing land supply; however the addition of a single property would have a negligible impact and so this benefit would not outweigh the harm to character identified above. The NPPF sets out that support for new homes in sustainable locations should not be override concerns relating to amenity, character and the natural environment.

It is recommended that the application be refused.

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## SHEFFIELD CITY COUNCIL Planning & Highways Committee

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**Report of:** Director of Regeneration & Development Services

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**Date:** 7 March 2017

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**Subject:** RECORD OF PLANNING APPEALS  
SUBMISSIONS & DECISIONS

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**Author of Report:** Claire Woods 0114 2734219

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**Summary:**

List of all newly submitted planning appeals and decisions received, together with a brief summary of the Inspector's reason for the decision

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**Reasons for Recommendations**

**Recommendations:**

To Note

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**Background Papers:**

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**Category of Report:** OPEN

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## DEVELOPMENT SERVICES

REPORT TO PLANNING &  
HIGHWAYS COMMITTEE  
7 MARCH 2017

### 1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

### 2.0 NEW APPEALS RECEIVED

(i) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for laying out and construction of a means of vehicular access and provision of a hard standing (Resubmission of 16/00644/FUL) at 39 Greenhill Avenue Sheffield S8 7TA (Case No 16/03832/FUL)

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for alterations to and use of former warehouse / office unit as dwellinghouse at Land To The Rear Of 15 To 17 Orchard Lane Beighton Sheffield S20 1EW (Case No 16/04157/FUL)

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for erection of a dwellinghouse at Curtilage Of 27 Normanton Spring Road Sheffield S13 7BA (Case No 16/04024/FUL)

### 3.0 APPEALS DECISIONS - DISMISSED

(i) An appeal against the delegated decision of the Council to refuse planning consent for excavation to front garden with access steps to basement and a covered area at basement level at 975 Abbeydale Road Sheffield S7 2QD (Case No 16/03081/FUL) has been dismissed.

Officer Comment:-

The Inspector identified the main issue as the effect of the proposal on the character and appearance of the area.

He agreed with officers that the excavated space would be visible only in close up pedestrian eye views but that this was significant. He also agreed that the loss of almost all the front garden (yard) to a glass covered

excavation would contrast with the uniformity of the terraced front gardens. In addition the staircase would be an unattractive uncharacteristic feature of this part of Abbeydale Road.

He therefore agreed there was conflict with UDP policy H14 and CS74 (Core Strategy) and dismissed the appeal.

(ii) An appeal against the delegated decision of the Council to refuse planning consent for alterations to roof including dormer to rear of dwellinghouse at The Barn 2A Beauchief Abbey Lane Sheffield S8 7BD (Case No 16/02870/FUL) has been dismissed.

Officer Comment:-

The main issue was whether the proposal would preserve or enhance the character or appearance of the Beauchief Abbey Conservation Area.

The Inspector noted the Conservation Area location and the proximity to the Grade II\* Listed Church, and the Abbey remains. He noted buildings within the Conservation Area had two storeys and gabled stone slated roofs, in a simple form.

He agreed with officers that the proposed dormer, set high up the roof and covering around a third of the roof slope, across its full width would dominate the roof, and in addition would be clad in tiles, in contrast to the prevailing materials in the area.

He also agreed that it would be readily visible from many vantage points within the Conservation area, including key views from the Abbey.

He therefore concluded it would fail to preserve and enhance the character of the Conservation Area, in conflict with the Council's policies and the aims of the NPPF.

In accord with paras 131-134 of the NPPF he balanced the less than substantial harm to the heritage asset (Conservation Area) against public benefit but found none in this case.

He also noted there had been no objections from neighbours and the proposals would assist utilising the property as a family home rather than rented property but found these did not outweigh the great weight afforded to the failure to preserve the significance of a designated heritage asset and dismissed the appeal.

#### 4.0 APPEALS DECISIONS - ALLOWED

(i) To report that an appeal against the delegated decision of the Council to grant part refuse part advertisement consent for 1 no. externally illuminated

post sign, 1 no. externally illuminated letters sign, 1 no. internally illuminated display case at The Place Nile Street Sheffield S10 2PN (Case No 16/03032/ADV) has been allowed and express consent is granted.

Officer Comment:-

The Inspector noted the main issue to be the effect of the signs on the character and appearance of the area.

She noted the Broomhill Conservation Area status of the site and its strong character of 2 storey stone buildings around its commercial core, however she also noted several buildings, including the appeal property did not follow the traditional style and were modern additions.

On that basis she considered that the modest scaled signs would be discretely lit and sympathetic to the host building and wider street scene and allowed the appeal.

(ii) An appeal against the delegated decision of the Council to refuse planning consent for removal of entrance porch, provision of timber cladding to two-storey front projection and provision of render to section of side elevation at The Place Nile Street Sheffield S10 2PN (Case No 16/03025/FUL) has been allowed with conditions.

Officer Comment:-

The Inspector identified the main issue as whether the development would preserve or enhance the character or appearance of the Broomhill Conservation Area.

She noted the Broomhill Conservation Area status of the site and its strong character of 2 storey stone buildings around its commercial core, however she also noted several buildings, including the appeal property did not follow the traditional style and were modern additions, some with modern brickwork and render.

She noted the proposed shiplap cladding was not typical of the area, but considered it formed only a small part of the elevation and would provide some visual interest. She therefore felt the works would preserve the character and appearance of the Conservation Area, and found no conflict with local or national policies, and allowed the appeal.

(iii) An appeal against the delegated decision of the Council to refuse planning consent for alterations to front window opening to form door opening and provision of external seating area including erection of jumbrella at The Place Nile Street Sheffield S10 2PN (Case No 16/03026/FUL) has been allowed with conditions.

Officer Comment:-

The Inspector identified the main issues as i) whether the development would preserve or enhance the character or appearance of the Broomhill Conservation Area; and ii) the effect on living conditions of neighbouring occupiers.

In terms of i) for similar reasons to that of the above appeal, and because of their low key nature she concluded the jumbrella would preserve the character and appearance of the Conservation Area.

In respect of living conditions she noted the presence of nearby residential property and that the alterations would allow the creation of a beer garden with around 24 seats. She found the noise assessment submitted by the applicant to be 'unconvincing' and noted the opportunity for noise breakout from the new doors/windows so acknowledged officers concerns about noise disturbance.

She noted a previously dismissed appeal in 2003 for a beer garden and the changes in circumstances, including the smoking ban since that time. She did not accept that the pub's viability outweighed the living conditions of neighbours. However, she saw no reason why the beer garden could not operate and be limited by appropriate planning conditions, and in allowing the appeal imposed a condition requiring all tables, seating, and other outdoor furniture, including umbrellas to be clear between 1800 hours and 0900 hours.

## 5.0 RECOMMENDATIONS

That the report be noted

Flo Churchill  
Interim Head of Planning

*7 March 2017*

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