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Case Number	18/04232/FUL (Formerly PP-07349482)
Application Type	Full Planning Application
Proposal	Erection of 1 no. dwellinghouse including retention of existing garage and trees (TPO), and erection of new boundary walls, paved terrace area and associated works
Location	Land Rear Of 43 To 49 Rodney Hill Occupation Lane Loxley Sheffield S6 6SB
Date Received	08/11/2018
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 requests for the trees to be heavily pruned or removed on the grounds of damage to property. As such the development would be contrary to paragraph 117 and 122 of the National Planning Policy Framework as well as policies H14 and GE15 of the Unitary Development Plan.
- 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 paragraph 127 of the revised National Planning Policy Framework as well as Policies H14 and BE5 of the Unitary Development Plan.

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 A17-180/01 Location Plans

Drawing A17-180/02 Proposed Ground and Roof Plan

Drawing A17-180/03 Proposed Front and Rear Elevations

Drawing A17-180/04 Proposed Long Elevations

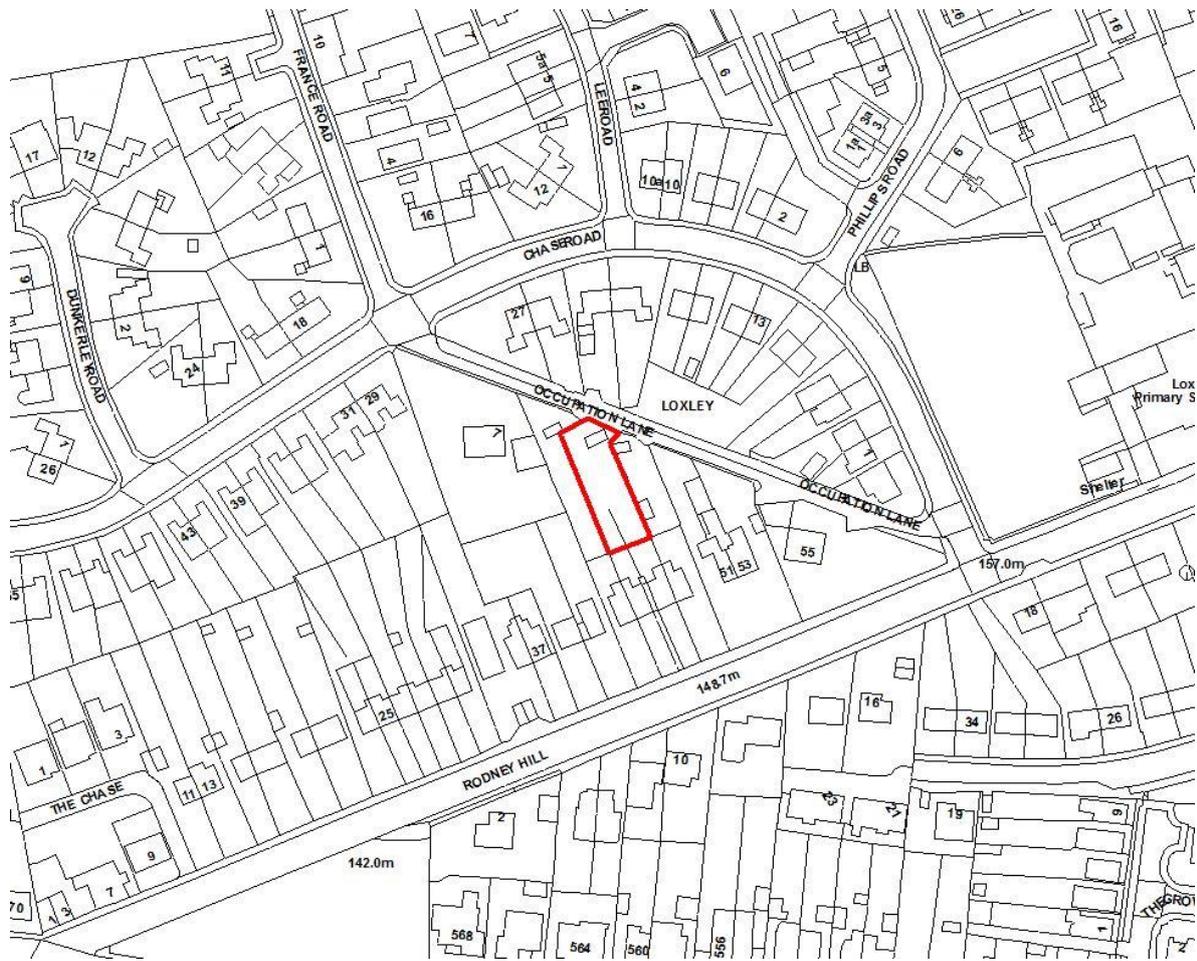
Drawing A17-180/05 Proposed Long Elevations from Rodney Hill

Drawing A17-180/06 Proposed Long Sections from 47 Rodney Hill

Drawing A17-180/07 Proposed Long Elevations from 45 and 47 Rodney Hill

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 requirement(s), and, there being no perceived amendment(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 steeply from Rodney Hill to Occupation Lane to the north from where access into the site would be taken. Along the boundary of the site with Occupation Lane are a number of trees which are protected by a Tree Preservation Order.

Planning permission is sought for the erection of a dwellinghouse. This would be single-storey and dug into the site with a pitched roof. Along the site boundaries to either side a stone wall is proposed with existing trees along the boundary with No.45 and 47 to be retained to provide screening (although these trees have been removed / heavily pruned).

The property would be accessed from Occupation Lane and a single parking space would be provided in the existing garage which is indicated to be retained and refurbished.

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

## 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 a 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 the 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).

More 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.

In 2016 the applicant applied for planning permission for a single dwelling on the site (application 16/02627/FUL refers). The plans indicated that the property would be single-storey, dug into the site with a brown roof. The application was refused as it

was considered that the development would have an adverse impact upon the character and appearance of the area. The proposed dwellinghouse would be out of character with neighbouring properties and the development would be likely to result in the demise of the trees adjoining Occupation Lane which are protected by a preservation order.

## SUMMARY OF REPRESENTATIONS

Bradfield Parish Council have objected to the development on the grounds that the proposal would be an overdevelopment of the site, due to the topography of the land and potential damage to an historic green lane.

Cllr Vickie Priestley has objected to the development as it would not be in keeping with the area and would be detrimental to other neighbours.

Loxley Valley Protection Society have also objected and raise the following concerns:

4 applications have been refused and three dismissed at appeal.

The trees that are protected have grown considerably since previous refusals and so the root protection area will be larger making the developable area smaller.

The development would be out of keeping with the area and the site would appear over developed and cramped in comparison with neighbouring properties.

The existing garage is to be retained which means that there will be even less space available on site for construction materials and equipment. As such the proposal would be likely to result in damage to the trees.

The development would still result in overlooking and be overly dominant of neighbouring properties and amenity areas.

11 representations from local residents were also received. These all object to the development and raise the following issues:

The lane (Occupation Lane) is not suitable for heavy traffic, in particular construction vehicles and the development would result in damage to the lane. Delivery vehicles would also struggle to access the site as would emergency service 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 development would necessitate the removal of large amounts of earth and would be likely to result in damage to the tree roots.

The trees that are proposed to form a screen between the development site and the properties on Rodney Hill have been heavily pruned/ removed in 2015 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 proposal would result in high walls along the boundary which would be detrimental to the amenity of the adjoining 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 garage which is shown for retention is in a dilapidated state and would be unlikely to be usable. There is little room to park in front of it.

Due to the site topography users of the amenity space of the proposed dwellinghouse would impinge upon the privacy of occupiers of properties on Rodney Hill.

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

The site has been neglected by the current owner and this should not be used as justification for a redevelopment of the site.

## PLANNING ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The Council's development plan comprises the Core Strategy which was adopted in 2009, and the saved policies of the Unitary Development Plan which was adopted in 1998. The National Planning Policy Framework published in 2018 and revised in February 2019 (the NPPF) is also a material consideration.

Assessment of a development proposal needs to be considered in light of paragraph 11 of the NPPF, which provides that when making decisions, a presumption in favour of sustainable development should be applied, and that where there are no relevant development plan policies, or where the policies which are most important for determining the application are out of date (e.g. because they are inconsistent with the NPPF), this means that planning permission should be granted unless:

- The application of policies in the NPPF which relate to protection of certain areas or assets of particular importance which are identified in the NPPF as such (for example SSSIs, Green Belt, certain heritage assets and areas at risk of flooding) provide a clear reason for refusal; or
- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

This is referred to as the “tilted balance”.

In addition to the potential for a policy to be out of date by virtue of inconsistency with the NPPF, para 11 of the NPPF makes specific provision in relation to applications involving the provision of housing and provides that where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer the policies which are most important for determining the application will automatically be considered to be out of date.

At the current time, the Council cannot demonstrate a five year supply. The Council's most recent assessment of supply, contained in the SHLAA Interim Position Paper (2017), showed a 4.5 year supply of sites, and this includes the appropriate buffer. Consequently the policies that are most important for determining this application are automatically considered to be out of date.

Set against this context, the development proposal is assessed against all relevant policies in the development plan and the NPPF below.

#### 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 as the site is within a sustainable location. 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 and set further from the boundary with Occupation Lane. The property would be set down to such an extent that much of it would be concealed behind the boundary walls to either side.

The applicant has set out in their Design and Access statement that the new dwellinghouse would be set towards the bottom of the site and so would not impact upon the protected trees. The existing vehicular access would be used as would the existing garage, meaning that there would be no significant changes to the level of the land beneath the trees.

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, the close proximity of the dwellinghouse 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 17 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.

Paragraph 117 of the revised NPPF sets out that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

It is considered that the development would not safeguard or improve the environment and so in this respect the proposal would be contrary to the aims of the NPPF.

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 proposed dwellinghouse would have a paved courtyard to the side which would have an area of approximately 45sqm and a further grassed terrace which would provide a further 28 sqm, however this would be sloping and so would not be as useable.

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 proposed dwelling being considered by the Planning Inspector 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. While different or innovative designs should not be discouraged, in this instance it is considered that the proposal would not be in keeping with neighbouring properties in terms of its footprint to garden ratio, and that this would be likely to have an adverse impact upon the character and appearance of the area. This would be 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.

Of greater relevance, paragraph 122 of the revised NPPF sets out that decisions should support development that makes efficient use of land, taking into account the

desirability of maintaining an area's prevailing character and setting (including residential gardens). Paragraph 127 goes on to state that decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

When weighed in the balance (applying the tilted balance as set out earlier in this report), it is considered that the proposed development would cause significant and demonstrable harm to the character and appearance of the area, in particular through the loss of trees and, to a lesser degree, the level of development of the site, and that this would outweigh the contribution of a single dwellinghouse towards the Council's five year housing land supply.

The development would be contrary to paragraphs 122 and 127 of the revised NPPF.

#### 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.

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.

The dwellinghouse would be L shaped with windows looking onto an enclosed courtyard. As the property would be dug into the site to such a degree there would only be a maximum distance of 5m from the bedroom windows to the boundary. The main living area would be lit by way of a set of patio doors which would face north with a distance of 12m to the higher level of a grassed terrace and parking area. The kitchen would receive very little in the way of natural light having no windows or roof lights (although this could be overcome through the introduction of rooflights).

It is considered that no direct overlooking to neighbouring dwellings would be likely to occur from within the property itself; however given the sloping nature of the site people using the garden areas, in particular the upper grassed area would be likely to be overlooked and could in turn look towards the rear of the frontage properties. However, given the topography, this can occur at present and so is afforded less weight.

Outlook from the proposed dwellinghouse would be poor, given the sunken nature of the property and noise and comings and goings from the property, together with light spill would all impact upon the amenity of neighbours. It is therefore considered that, on balance, the proposal would have an unsatisfactory impact upon the amenity of occupiers of neighbouring dwellings.

It is considered that the development would be contrary to paragraph 127 of the NPPF which sets out that 'planning decisions should ensure that developments

create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.'

The submitted plans indicate that the southern boundary of the site would comprise of existing trees. These have subsequently been removed / heavily pruned. Therefore, 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 site to the properties on Rodney Hill. It is considered that the development would be situated sufficiently far from the rear of properties on Rodney Hill to prevent overshadowing / loss of light from occurring and the imposition of such a boundary treatment would not be harmful to the amenity of neighbours.

### 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 a single off-street parking spaces would be provided and this is deemed to be adequate.

### Drainage

In dealing with the previous application the matter of surface water and ground water was raised with the Council's land drainage section. They raised no objections to the proposal. Whilst the removal of vegetation may result in the loss of natural soakaways it is not in itself considered to be a reason for refusal. Little has changed in terms of the proposed development with regards to drainage and it is still felt that a refusal of the application on drainage grounds cannot be substantiated.

## 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 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 properties set back from the road frontage with long narrow gardens.

The Council do not, at this time, have a 5 year housing land supply and so the principle of residential development in this location is deemed to be acceptable unless it can be shown that the development would result in significant and demonstrable harm.

It is accepted that the proposed development would prevent direct overlooking from windows to windows; however it is considered that the development would, as a result of its large footprint and proximity to neighbouring properties, impact upon the amenity of occupiers of those properties in terms of increased noise, general disturbance and light spillage. Occupiers of the development would also be afforded poor outlook and areas of the property would have little in the way of natural light.

When weighed in the balance it is considered that the loss of the trees and the affect the development would have upon the wider character and appearance of the area as well as the affect upon residential amenity would outweigh the benefits of providing a single dwellinghouse in this sustainable location.

The development would be contrary to paragraphs 122 and 127 of the revised National Planning Policy Framework, as well as Unitary Development Plan Policy H14, GE15 and BE5 (which have been afforded less weight than the NPPF in reaching this conclusion).

It is recommended that the application be refused.