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| Case Number      | 20/01667/FUL (Formerly PP-08737171)   |
| Application Type | Full Planning Application   |
| Proposal         | Use of adjacent park land as external trading area for Public House including provision of seating area, siting of container unit for use as servery and provision of additional access to site from Millhouses Park and associated works |
| Location         | Waggon and Horses, 57 Abbeydale Road South / and Park Land Adjacent<br>Sheffield<br>S7 2QQ  |
| Date Received    | 27/05/2020  |
| Team             | South   |
| Applicant/Agent  | Melling Ridgeway And Partners   |
| 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:
  - Site Location Plan / 5610-412 B (uploaded on 23 Jun 2020)
  - Proposed Elevations and Site Section / 5610/408B (emailed to Planning Officer on 20 Jan 2021)
  - Proposed Site Plan / 5610/402A (uploaded on 18 Nov 2020)
  - Tree Protection Plan / 1044 WNH 003 A (uploaded on 18 Nov 2020)

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. A comprehensive and detailed hard and soft landscape scheme for the site shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority.

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

4. No externally mounted plant or equipment for heating, cooling or ventilation purposes, nor grilles, ducts, vents for similar internal equipment, shall be fitted to the building or installed within the curtilage unless full details thereof, including acoustic emissions data, have first been submitted to and approved in writing by the Local Planning Authority. Once installed such plant or equipment shall not be altered.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

5. Prior to their installation, details of the external finish and colour of the container unit/servery and external steel steps shall be submitted to and approved in writing by the Local Planning Authority. The container/servery and steps shall then be implemented in accordance with approved details.

Reason: In order to ensure an appropriate quality of development.

6. The approved landscape works shall be implemented prior to the development being brought into use or within an alternative timescale to be first approved by the Local Planning Authority. Thereafter the landscaped areas shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.

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

7. The soft landscaped areas shall be managed and maintained for a period of 5 years from the date of implementation and any plant failures within that period shall be replaced in accordance with the approved details.

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

8. The Local Planning Authority shall be notified in writing when the landscape works are completed.

Reason: To ensure that the Local Planning Authority can confirm when the maintenance periods specified in associated conditions/condition have

commenced.

9. No development shall commence until the approved details of measures to protect the existing trees to be retained, have been implemented. The Local Planning Authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until the completion of the development.

Reason: In the interests of protecting the identified trees on site. It is essential that this condition is complied with before any other works on site commence given that damage to trees is irreversible.

10. The indicated boundary treatment details are not hereby approved. Details of a suitable means of site boundary treatment shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority and the external trading area shall not be used unless such means of site boundary treatment has been provided in accordance with the approved details and thereafter such means of site enclosure shall be retained.

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

11. The development shall be carried out in accordance with the submitted flood risk assessment (ref 13th November 2020 / 20/027.01 / JOC Consultants Ltd) and the following mitigation measures it details:

- Finished floor levels of the server unit shall be set no lower than 98.3 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

12. No external lighting shall be provided unless and until full details of such lighting have been submitted to and approved by the Local Planning Authority. The submitted details shall include a report which demonstrates that the lighting scheme is designed in accordance with The Institution of Lighting Professionals document GN01: 2011 'Guidance Notes for the Reduction of Obtrusive Light'. Only the approved lighting details shall be implemented as part of the development.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

#### **Other Compliance Conditions**

13. No loudspeakers shall be fixed externally nor directed to broadcast sound outside the building at any time.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

14. No customers shall be present within the new outside seating area on the existing park land between 21:00 - 09:00 hrs on any day.

Reason: In the interests of the amenities of the locality and occupiers of adjoining property.

15. Unless otherwise indicated on the approved plans no tree, shrub or hedge shall be removed or pruned without the prior written approval of the Local Planning Authority.

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

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.
2. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
  - on or within 8 metres of a main river (16 metres if tidal)
  - on or within 8 metres of a flood defence structure or culverted main river (16metres if tidal)
  - on or within 16 metres of a sea defence
  - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
  - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environmentagency.gov.uk](mailto:enquiries@environmentagency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and the Environment Agency advise they are consulted us at the earliest opportunity.

3. The Environment Agency strongly recommend the use of flood resistance and

resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. If you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the planning practice guidance.

Further guidance on flood resistance and resilience measures can also be found in:

Government guidance on flood resilient construction

<https://www.gov.uk/government/publications/flood-resilient-construction-of-newbuildings>

CIRIA Code of Practice for property flood resilience

[https://www.ciria.org/Research/Projects\\_underway2/Code\\_of\\_Practice\\_and\\_guidance\\_for\\_property\\_flood\\_resilience\\_.aspx](https://www.ciria.org/Research/Projects_underway2/Code_of_Practice_and_guidance_for_property_flood_resilience_.aspx)

## Site Location



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## LOCATION AND PROPOSAL

The application site is located to the south-east of Abbeydale Road South, and features the 'Waggon and Horses' Public House (PH) and some adjacent parkland. The PH sits within Millhouses Park, and the site is designated as 'Open Space' within the Adopted Unitary Development Plan.

The application relates to the portion of parkland adjacent to side of the premises facing north-east and land at the rear of the building.

Permission is sought to enable conversion of the space to an external trading area for the PH. This would involve:

- Provision of 20 tables giving 160 covers for customer use to include two entry/exits to the park,
- the siting of a container unit (4.6m by 2.1m) as a serving facility.
- some re-levelling and surfacing works. Adaptation works to facilitate car park access from the park. Formation of perimeter treatments and creation of small railway sleeper/retaining structures.
- Removal of 5 trees, as well as some minor canopy-lifting and crown reduction works to other trees and removal of understorey planting.

## RELEVANT PLANNING HISTORY

10/01293/FUL: Formation of beer garden including installation of ten tables/chairs and planting areas and erection of perimeter fencing (As per amended drawings received 06/08/2010).

This application related to the conversion of space used a car park to the PH, rather than parkland or car parking facilities associated to the park. However, the approval was not implemented.

Approved - 17.08.2010

## SUMMARY OF REPRESENTATIONS

Following publicity given to the application representations both for and against the proposals have been submitted, and are summarised below:

### Objections

Following neighbour notification and the placement of site notices; a total of 56 representations have been received in objection to the scheme.

The objections to the scheme are summarised as:

### Park / Open Space Issues

- Conflict with Core Strategy policy CS47. Reduction of public open space where current levels are the lowest in the city following recent, local developments on open space/s. Open space particularly valuable to those without a garden and during

pandemic. Millhouses Park is a destination park.

- A key purpose of parks is to encourage healthy activity, as per Green and Open Spaces Strategy. Scheme reduces opportunity to exercise.
- Affected part of park is quieter than elsewhere, bringing mental health benefits. Used by older people, families picnicking, children on bikes/scooters and playing in trees. Gives a shaded area and forms a psychological barrier between park and pub. Near to children's play area.
- Effects on park's general character, particularly area next to Pub and in the child's play/skate park area, bouncy castle and ice cream van area and outdoor gym. Loss of family atmosphere, replaced by tense, uncomfortable ambience. Noise, smoke, litter and broken glass spread into park. Overlooking to park users.
- Introduction of alcohol adjacent to park users would cause offence to and discourage Muslim park users, often visiting from Sharrow with less park space.
- Antisocial behaviour / disturbance. Children exposed to environment where alcohol consumed without parental consent. Safeguarding issues.
- Entry/exit points from beer garden to park would promote excessive and anti-social behaviour. Additional accesses through busy, flower garden area should be avoided. Space should be isolated from park.
- Increase vandalism and graffiti in park.
- Policing of negative impacts will fall to Sheffield Council.

#### Ecological Issues

- Portion of parkland is well used by bird-life. Observed (in spring 2018) that 10-15 bird species used area at one time (including 3 species on RSPB's amber / red list).
- Loss of mental health benefits of contact with nature.
- Tree and shrub removal will decrease habitat value of space.
- Negative ecology impacts of noise, litter, light pollution, odours, and increased adult presence.

#### Landscaping Issues

- Trees would be felled, and others impacted by proposals. Loss of screening. Impacts on air quality along Abbeydale Road corridor.

#### Commercial Issues

- Leasing of public parkland (which was donated to Sheffield's people) for commercial gain/profit would set precedent.
- Impacts to park café.
- Other under-used pubs in locality.

#### Residential Living Conditions

- Existing late-night noise issues in this area will be exacerbated, affecting members of local community (i.e. at Ranulf Court's retirement flats and nearest parts of Hartington Avenue and Pingle Road). Acoustics magnify sound during summer months. Pub customers currently congregate in the application area, causing anti-social behaviour.
- Existing anti-social behaviour elsewhere in the park (including late-night, alcohol consumption) would increase.



## Highways Issues

- Additional traffic in area. Heavy parking on Abbeydale Road South and surrounding side roads will worsen.

## Other Issues

- Site notification is not obvious. Lack of official consultation.
- Existing pub car park (rarely used) or space at rear of pub represent better alternative locations. Scheme includes 4 times more seating, a servery and entry points into park, compared to previously proposed scheme which was met with substantial opposition (a 2,000 signature petition).
- Adequate seating at pub frontage.
- Friends of Millhouses Park not consulted. Friends Group have raised funds for park, paid for all key attractions, organised volunteer events, and maintaining the park. Friends Group is opposed to the application.

## Non-Material Planning Issues

- No Licence has been issued, and this should be acquired before determination of application. Cricket club are only able to serve alcohol within premises
- Publicity posters located around park with an invalid web address have discouraged comment.
- Health issues related to alcohol.

Carter Knowle and Millhouses Community Group have made three representations which are summarised as follows:

- Application makes no reference to Policy CS47 or to the Building Better Parks Policy.
- No Design and Access Statement is supplied, no separate community consultation undertaken, application doesn't set out benefits, provide business case, demonstrate value for money, provide an environmental assessment, a H&S assessment, assess impacts on other users, assess the increased footfall and vehicles in area, or provide an equalities assessment. There is no indication of proposed hours of use, no assessment of impacts on residents, and no assessment of possible alternatives.
- Inadequate/delayed notice provided. Planning On-Line has been slow/inaccessible.
- Parks and Countryside are understood to be fully supportive of proposal, which is against Building Better Parks Policy. Proposal was signed off improperly by Cabinet lead for Culture and Leisure in Feb 2020, given failures to abide by policy and before the pandemic's effects.
- Sets precedent.

Cllrs Barbara Masters and Shaffaq Mohammed have submitted a joint objection and have undertaken a local survey. The comments are summarised as:

- Decision should be deferred given the way the application has been progressed and their survey's findings.
- Given pandemic many residents are not aware of application. No consultation prior to application's submission, preventing discussion / compromise.
- People have been reliant on Planning Portal, that's not conducive to scrutiny. Not accessible to all. Proper public consultation would have overcome this.
- Submitted documents are unclear / contradictory.
- Setting of precedent for further park disposal.

- Building Better Parks strategy outlines a procedure for assessing proposals which haven't been followed.

Cllrs Masters and Mohammed's survey was delivered to 650 local properties, and 102 were returned. The main conclusions are summarised as:

- 69% were in favour of application (but only 25% unreservedly), 25% against and 6% undecided.

Concerns as follows:

- sets precedent for disposal of park land
- container inappropriate for setting
- littering and antisocial behaviour
- pub should take responsibility for customer behaviour
- tree removal
- pub should remain shielded from park,
- car park should be used (ie application reference 10/01293/FUL).
- park is a family space, atmosphere would be affected by a space for alcohol consumption, especially next to a main entrance to park
- servery and chairs/tables requires permanent changes to be made.
- affect existing café's viability
- rent won't be spent on park and won't compensate for harm to park users,
- additional traffic and parking
- environmental damage (i.e. heaters)

The responses in favour of the proposals commented that:

- scheme relates to small, rarely used area of park,
- will attract more business to pub,
- pub is a community facility and proposal gives additional space to families, and allows supervision of children in park,
- will provide commercial connectivity to general area,
- will enhance park as a destination given COVID restrictions,
- will provide council with rental income,
- café cannot cope at busy times

Support

A total of 45 representations have been submitted supporting the proposal. These are summarised as:

Open Space / Park Issues

- Space of low landscape / ecological value. Space is sloped and too close to main road. It is shaded. Least attractive part of the park, subject to low usage. Proposal will enhance park.
- Existing outdoor area is responsibly managed and clean. Pub users are largely local families, not rowdy drinkers. The pub is friendly and part of community.
- Gives safe environment to enjoy food/drink, isolated from a busy road. Would be well used by many local families and mature clientele. Would help to normalise

drinking for children before becoming adults. Council should support provision of outdoor spaces for people to meet. Allows children to play whilst parents/carers sit and have a drink/food. Encourages park usage.

- May contribute to reduction in casual drinking nearby in park.
- Loss of park space could be compensated for by s106 funds, and scheme would constitute sustainable development.
- Other non-recreational / commercial uses operate in the park.
- Café is overwhelmed by demand and closes at 5pm. Café and pub offer complementary facilities. Proposal will also complement the ice cream van.
- Drinks shouldn't be taken into the park, and this should be enforced.

#### Landscaping Issues

- Affected trees are of low quality.

#### Living Conditions

- Existing seating area doesn't cause noise impacts, proposed additional seating is further away.
- Would only be well used in hotter weather. Usage later into evening will be unusual.

#### Highways Issues

- Adequate parking exists and wouldn't create congestion.

#### Commercial Issues

- Will enhance commercial viability of pub, when many other local pubs are closing. Local businesses should be supported, other local businesses will benefit. Provision of jobs.
- Pandemic has highlighted need for outdoor spaces to eat and drink.
- Park's facilities have always adapted with times, and proposal would address a real need, heightened by pandemic.
- Sheffield lacks good beer gardens.

#### Lease / Licensing Issues

- Lease would need to be tight and could be terminated early if necessary. Space would need to be kept litter free. Pub would need to ensure customers drink responsibly. Pub will provide WCs for increased numbers.
- Licensing will be able to deal with any problematic issues.

The Council's Parks and Countryside Service were consulted as an owner of adjoining land. The comments received are summarised as:

- Parks and Countryside officers have been working with Waggon and Horses staff since 2017, and in principle it has been agreed that a 10-year lease with market rent will be negotiated. Income raised will be reinvested into the park.
- Main concern is to ensure the area must be strictly managed without overspill into the park.
- Parks and Countryside were not able to carry out a partner consultation process in

advance of application, due to submission of the planning application.  
- a full tree survey has been submitted.

## PLANNING ASSESSMENT

### National Planning Policy Framework

The National Planning Policy Framework (NPPF) sets out the Government's planning priorities for England and how these are expected to be applied. The key principle of the NPPF is the pursuit of sustainable development.

### Policy Context

Paragraph 12 of the NPPF makes it clear that a presumption in favour of sustainable development does not change the status of the development plan as the starting point for decision making. Paragraph 12 continues that where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

Paragraph 213 of the NPPF states that policies should not be considered as out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. Therefore, the closer a policy in the development plan is to the policies in the Framework, the greater the weight that may be given.

The assessment of this development proposal needs to be considered in light of paragraph 11 of the NPPF, which states that for the purposes of decision making, where there are no relevant development plan policies, or where the policies which are most important for determining the application are out of date, planning permission should be granted unless:

- The application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development.
- Any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

The above is often referred to as the tilted balance. All local policies referred to in this report will be assessed in association with their consistency with the NPPF and offered weight accordingly.

The Development Plan in this case comprises the Unitary Development Plan (UDP), 1998 and The Core Strategy, 2009.

### Principle of Proposed Use

The application site is in an Open Space Area under the Adopted Unitary Development Plan's (UDP) designation.

UDP Policy LR5 'Development in Open Space Areas' remains valid, with Core Strategy Policy CS47 'Safeguarding of Open Space' also relevant.

LR5 closely aligns with the NPPF, and so is afforded significant weight. Policy CS47 is multi-faceted, with its numerous elements according to the NPPF to varying extents, so is therefore attributed moderate weight.

Policy CS47a) states development in Open Space areas will not be acceptable, where it would result in a shortage of either informal or formal open space in the local area. An open space assessment has been carried out, which shows there to be a surplus of informal open space in the local area. Policy CS47a) is considered to align with NPPF paragraph 97a) in this respect, which states that open space is able to be built on providing it is surplus to requirements.

As such, the principle of the proposed development would be supported by the relevant local and national policies.

Concerns have been raised around converting park space that is publicly owned, having been originally gifted to the City, into commercial space.

Whilst the nature of the proposed use would differ from its intended operation when the land was originally donated, this wouldn't be a material planning issue and neither would it constitute a reason to resist the application. However, NPPF paragraph 92a) is relevant as it requires planning decisions to plan positively for the provision of shared spaces such as public houses, amongst other uses. In this respect, the current pandemic has evidenced that the ability of pubs to have outdoor seating areas can make a substantial difference to their viability, in terms of accommodation and attracting customers. It is therefore considered that the current proposal would enable the venue to operate flexibly in its response to current and future circumstances, in accordance with NPPF paragraph 92a).

#### Amenities of Park Users and Local Residents

UDP policy LR5i) requires development in Open Space areas to not result in over-development or to harm the character of area. LR5k) requires proposed uses to be compatible with surrounding land uses. As above, this policy accords with the NPPF and so is afforded significant weight.

#### - Impacts on Park-Users

A range of concerns have been raised relating to the nature of the use as outdoor space for use by the pub and the implications of alcohol consumption immediately adjacent to the public park. Included in these responses are concerns that the family focused character of the park would be undermined by the atmosphere generated within and adjacent to the proposed area.

Conversely the supporting representations include comments that an external pub area would be well used by families and would complement activities within the park.

It would not be reasonable to base this planning assessment and judgement on an

assumption that a boisterous, intimidating atmosphere would be consistently generated by customers using the proposed external area. The area would be expected to be used, at least partly, by families consuming food and drink together.

Also, the proposed servery would be staffed, giving opportunity for customer behaviour to be monitored and managed. The managed nature of the space would help to prevent the space from being an uncontrolled environment. Concerns have been raised that park visitors who are Muslim, would be offended by observing alcohol consumption and discouraged from attending the park. However, the area of the park affected accounts for a very small proportion of the overall area of the park. Additionally, the park entrance immediately to the north of the site of the proposed external area is one of several entry/exit points to the park, which gives opportunities to avoid the entry point in question.

The proposal includes 2 entry / exit points from the extended external seating area into the park (the third being just an access to the car park area). Concerns that these will lead to the pub's activities 'leaking out' into the park would be prevented by on-site management. Equally, some connectivity between the spaces would facilitate positive interactions between the two spaces.

Therefore, it is not considered that the proposal would affect the character of the park to a level which would warrant the refusal of the application and so complies with Policy LR5's relevant aspects. Equally, it is not considered that it would be reasonable to conclude that the proposal would be incompatible with the park to a level sufficient to warrant refusal of the application.

#### -Impacts on Nearby Residents

The nearest neighbouring residential occupiers are the retirement apartments at Ranulf Court on the opposite side of Abbeydale Road South. These are a minimum of 30 metres away and are separated by the busy, four-lane highway. Other neighbouring occupiers are separated by a substantially greater distance than this. The pub currently provides around 9 tables across its frontage, giving seating for approximately 72 persons.

The proposed area would include seating for a further 160 potential customers. The separation distances to neighbouring occupiers and the main arterial nature of the intervening highway, would lessen the potential for noise generated as part of the proposal to have significantly harmful impacts on neighbouring living conditions.

However, to prevent the potential for noise dispersal into the late evening period, when the highway activity begins to reduce, it is considered necessary to limit the operating times of the extended area to between 09:00hrs and 21:00hrs.

It is also considered necessary to prevent the installation of loudspeakers within the space and the positioning of loudspeakers to allow the broadcasting of sound outside the building. Also, it would be necessary to require that any external plant for heating and/or cooling for example would need to be approved by the planning authority before installation. Conditions covering these items are therefore included within the recommendation.

Providing the proposed use operates in accordance with these conditions, it is considered that the amenities of other park users and surrounding residents would not be unacceptably harmed, and the requirements of UDP policy LR5k) would be complied with.

## Design Issues

UDP policy LR5i)'s requirement for development to not result in over-development or to harm the character of area is also pertinent to the proposal's visual impacts and implications for the surrounding street scene.

UDP Policy BE5 'Building Design and Siting' and Core Strategy Policy CS74 'Design Principles' require development to be well designed and in scale and character with the locality. BE5 m) states that temporary buildings will only be permitted where they are required to meet short-term operational needs and would not be in prominent locations or Conservation Areas.

UDP policy BE20 'Other Historic Buildings' encourages the retention of historic buildings which are of local interest, but not listed, wherever practicable.

NPPF Paragraph 124 highlights the importance of good design as a key aspect of sustainable development.

At paragraph 197 the NPPF states that the effect of an application on a non-designated heritage asset should be taken into account when determining an application, and in weighing applications affecting such assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The local and national policies are closely aligned and so can be offered significant weight.

Whilst the existing stone pub is part of a distinct collection of heritage buildings along this length of the road, it is not listed or in a conservation area. Similarly, the park does not have any special designations. That said, the building and especially its north gable is reasonably prominent from the road when travelling outward from the city. As a result, the Applicant has agreed that the servery unit should be located in position offset from the gable of the building. This means that it would not conceal the north facing stone gable when viewed from Abbeydale Road. The Applicant is also agreeable to the container being painted a dark colour, so that it is read as part of the surrounding landscape.

UDP policy BE5m) states that temporary buildings will only be permitted where they would meet short-term operational needs, and where they aren't in prominent locations or Conservation Areas. The servery would comprise an upcycled shipping container. This would be located and coloured to acceptably minimise its prominence. The upcycled container would still constitute a 'temporary building', and wouldn't be proposed for a short-term period, however, since the adoption of the UDP the use of shipping containers in circumstances such as these has become

more common place, and they can be seen as providing additional accommodation in a 'light-touch' way. As a consequence, and also given the agreement/s regarding location and colour of the container, it is considered that its visual implications would be acceptable avoiding the type of harmful effects which underpinned policy BE5m).

Overall, the proposal is considered to have acceptable impacts on the visual appearance of the building and its wider setting, complying with the relevant local and national policies in this respect.

### Landscaping

UDP Policy GE15 'Trees and Woodland' requires developers to retain mature trees, copses and hedgerows, wherever possible and to replace any trees which are lost.

The local and national policies reflect the NPPF in part but the latter is more strategic with regard to habitats, their protection, enhancement and biodiversity net gain. As such moderate weight can be offered to this local policy.

The proposal involves the removal of 5 separate trees, namely T2, T9, T17 and two trees in G16, as identified in the tree survey and site layout plan which accompany the application. It is also proposed to carry out canopy lifting to T7 and trees in G8, and minor crown reduction to trees in G11, G12 and G13.

T17 is dead and T2 and T9 are small trees with significant issues that will not survive much longer. As a result, there is not considered to be any objection to the removal of these trees.

The two trees in G16 (all Lawson Cypress trees) are at the group's north-east edge. It is considered that their removal would have minimal impacts in landscaping terms on the group and the wider setting.

The canopy lifting and crown reduction works would have minimal landscape impact and will not unacceptably affect the contributions made by the trees within the context of the overall park.

As such, the proposed trees removal and pruning works are considered acceptable in overall landscaping terms.

Regarding the retained trees, the proposals are satisfactory. The proposed works will safeguard their root networks by maintaining existing levels within the root protection areas. The proposed steps will be formed using 'hand-dig' construction techniques and piled foundations to avoid root intrusion. As a result, these additional structures would be considered to avoid any harm to the retained trees.

Details of hard and soft landscaping will be required by condition, along with boundary treatment measures. These will be required to be robust and visually acceptable in their context.

Overall, the proposal is considered to have acceptable implications in regards to landscaping issues, satisfying the requirements of UDP policy GE15.



## Ecology

Paragraph 170 of the NPPF states that development should minimise impacts on and provide net gains for biodiversity.

UDP Policy GE11 'Nature Conservation and Development' requires that the natural environment is protected and enhanced. The design, siting and landscaping of development should respect and promote nature conservation and include measures to reduce any potentially harmful effects of development on natural features of value.

Again, this local policy complies in part with national policy, however the NPPF is more strategic regarding habitats, their protection, enhancement and biodiversity net gain. As such moderate weight can be offered to this local policy.

The space is comprised of poor amenity grassland that is partially shaded. It also includes an area of hardstanding. The loss of this area of grassland is considered to be of negligible significance in ecological terms.

The trees proposed for removal are dead, of poor quality or are non-native, and so their loss would not lead to adverse biodiversity impacts. The proposed crown and canopy works are minimal within their context, and as they relate to non-native Lawson Cypress trees would not be considered to adversely affect the area's biodiversity to a significant extent.

Overall, the proposal would not be considered to have any adverse effects on the biodiversity of the site or the surrounding area, and the relevant policies would be complied with.

## Flood Risk

Core Strategy policy CS67 'Flood Risk Management' amongst a detailed series of requirements states that where an overriding case exists for developing in an area with a high probability of flooding, more vulnerable uses should be above the ground floor level, the building should be resilient to flood damage and adequate on and off-site flood protection measures should be provided.

The NPPF's focus is on the sequential and impact tests. In Paragraph 163, the NPPF states planning authorities should ensure that flood risk is not increased elsewhere, and where appropriate applications are supported by a site-specific flood-risk assessment. It adds that development should only be allowed in areas at risk of flooding where in light of the assessment, it's demonstrated that in a site the most vulnerable development is located in areas of lowest risk the development is flood resistant, sustainable drainage systems are included, residual risks are managed and safe escape routes are included.

The local policy accords with the NPPF and is therefore afforded significant weight. The application included a Flood Risk Assessment, which was amended following input of the Environment Agency.

Whilst the NPPF's focus is the sequential and impact tests, the current application isn't required to provide a sequential test as it's an extension of an existing premises, and given this context the relevant Planning Practice Guidance states it isn't pragmatic to apply the sequential test.

The site is located mainly within flood zone 1 (low risk), however, the remaining portion is designated as being within each of zones 2 (medium risk), 3a (high risk) and 3b (functional floodplain).

The modified flood risk assessment advises that a small portion of the server's footprint would be within zone 2. To prevent additional flood risk, the internal floor level of the server unit is proposed to be raised above the existing ground by a maximum of 500mm.

The Environment Agency have responded to this amended document, confirming that it overcomes their earlier objection, and that it would not generate any additional risks of flooding to the proposal and/or its users.

Therefore, the scheme is acceptable in this regard, meeting relevant planning policies. It is recommended that any approval would need to be subject to the condition recommended by the Environment Agency.

#### Access / Mobility

UDP policy BE7 'Design of Buildings used by the Public' requires there to be safe and easy access for people with disabilities to such buildings along with appropriate parking spaces.

The NPPF requires buildings to be inclusive and safe for existing and future users. BE7 accords with the NPPF, and so is afforded significant weight.

The proposed details are considered to provide appropriate facilities and an inclusive environment for disabled customers. On this basis, the proposal is acceptable in this respect and would meet the relevant policy requirements.

#### Highways Issues

Paragraph 109 of the NPPF states "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Policy CS51 'Transport Priorities' within the CS identifies strategic transport priorities for the city, which include containing congestion levels and improving air quality.

UDP policy LR5 doesn't include any elements specific to the highway implications of proposals in Open Space Areas.

CS51 accords with the NPPF, and so is afforded significant weight.

The proposal would be likely to attract additional custom to the venue. This will include those from the locality where customers visit by foot. There will also be

'linked-trips', where people visiting the park by car combine this with a visit to the venue's additional facilities. In addition, there will be a proportion solely visiting the venue by car.

Concerns have been raised about the ability of the surrounding roads (Abbeydale Road South, Pingle Road, and Hartington Avenue) to accommodate extra on-street parking. Additionally, the Pub would retain its existing car parking facilities, with only 1 of the existing 31 spaces removed as part of the proposed alterations.

The park has its own 'Pay & Display' parking facilities which would also be able to accommodate any additional parking requirements. The North Car Park is approximately a 200metre walk (via the park), which is considered sufficiently close to encourage its use for this purpose.

As a result, it is not considered that any on-street parking generated by the proposal would be sufficiently harmful to surrounding highway safety to warrant a recommendation for refusal of the application. On this basis, the relevant policy requirements would therefore be complied with.

Some representations have suggested the existing car park should be used instead of the existing parkland. Such a proposal would involve the loss of current parking facilities, so would potentially lead to additional highway impacts, and regarding this issue would not be considered to be a preferable alternative.

## RESPONSE TO REPRESENTATIONS

Most representations have been addressed in the above assessment. Regarding the remaining comments the following points can be made:

- Given the poor health and quality of the trees proposed for removal, it is not considered they would have any significant beneficial impacts in air quality management terms. There would therefore be no objection to their removal in respect to this issue.
- The possible implications on trade at the park café do not form a material planning consideration and wouldn't form a reason to not approve the application.
- The availability of other under-used pubs locally would also not form a material planning consideration.
- The potential for the application to cause an increase in existing anti-social behaviour elsewhere in the park cannot be clearly demonstrated, and would represent an unreasonable assumption. Management of behaviour in the proposed additional space would discourage and prevent this.
- Four site notices were strategically located adjacent to the park and on the opposite side of Abbeydale Road South, in accordance with statutory requirements and the Statement of Community Involvement.
- The Friends of Millhouses Park group were notified of the proposal. No response was received.
- The current application is required to be assessed on its merits, and it is not possible to instead consider a different alternative.
- The level of objection to a previously proposed version of the scheme is not considered pertinent to the current assessment. The inclusion of an invalid web

address on publicity posters (not planning site notices) around the park doesn't give reason to delay determining the planning application.

- Health issues around alcohol would not form a material planning consideration.
- A license would be required in relation to the proposal, and this would need to be sought separately from the current application. The details of a license granted to the cricket club would not be relevant to the current assessment.
- A Design and Access Statement was provide with the application, albeit sometime after its submission.
- The 'Building Better Parks Policy' is not a planning policy, and it is not necessary to assess whether the planning application meets the requirements of this policy or not. The Community Group commented that the application wasn't accompanied by a number of different documents, however, these are not required as part of a planning application and the application's determination cannot be delayed on this basis.
- The comments about the operation of the Council's Planning On-Line service are understood to stem from a period in 2020 when IT systems were being modified. However, that is some months ago and the Portal is understood to have been operating efficiently for a substantial time now.
- The amended documents are considered to clarify the precise details of the proposal.
- Each application is determined on its own merits, and so an approval here wouldn't form a precedent.
- A section 106 financial contribution is not considered necessary in order to allow the application to be supported.

## SUMMARY AND RECOMMENDATION

The application relates to a portion of existing parkland, adjacent to the curtilage of the Waggon and Horses Public House located to the south-east of Abbeydale Road South.

Planning permission is sought to allow the portion of parkland to be used as an external seating/serving area by the Waggon and Horses. This would involve the installation of a serving unit in the form of an upcycled container unit, the provision of around 20 tables giving 160 covers, and the removal of some existing trees.

The proposal would not result in a shortage of informal open space within the area. It would have an acceptable impact upon the appearance of the site and its contribution to the surrounding street-scene. There would also not be harmful impacts on the character of the surrounding parkland and living conditions of surrounding residential occupiers.

It would have acceptable impacts in relation to trees in/adjacent the site and would not have unacceptable impacts upon biodiversity. The implications for local highway safety and disabled users would be considered to be acceptable.

Furthermore, it is considered that the relevant development policies that are most important for determining this application can still be afforded substantial weight as they accord with the corresponding sections within the NPPF.

Overall, the scheme is considered to meet the requirements of the relevant local and national planning policies. Consequently, the scheme is considered acceptable and

conditional approval is therefore recommended.

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