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Case Number	21/00366/FUL (Formerly PP-09449764)
Application Type	Full Planning Application
Proposal	Erection of a nursery (Use Class E) with associated parking
Location	15A Broomfield Road Stocksbridge Sheffield S36 2AR
Date Received	27/01/2021
Team	West and North
Applicant/Agent	GLH Architects
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 shall be carried out in accordance with the following drawings:-

- Drawing No. DR-A010 P5 (Proposed Site Plan)
- Drawing No. 20-1-1005-GLH-ZZ=ZZ-DR-A-022 Revision P4 (Proposed Floor Plans)
- Drawing No. 20-1-1005-ARC-ZZ=ZZ-DR-A-023 Revision P3 (Proposed Elevations)

published on the 16/06/21

Reason: In order to define the permission

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

3. No development shall commence until a mines gas risk assessment has been undertaken and a desktop study report has been submitted to and approved in writing by the Local Planning Authority. The report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004).

Reason: In order to ensure that any contamination of the land and mines gas has been properly dealt with.

4. Any intrusive investigation recommended in the Mines Gas Risk Assessment Desktop Study Report shall be carried out and be the subject of a Phase II Intrusive Site Investigation Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to the development being commenced. The Report shall be prepared in accordance with Contaminated Land Report CLR 11 (Environment Agency 2004).

Reason: In order to ensure that any contamination of the land and mines gas has been properly dealt with.

5. Any remediation works recommended in the Phase II Intrusive Site Investigation Report shall be the subject of a Remediation Strategy Report which shall have been submitted to and approved in writing by the Local Planning Authority prior to construction works commencing. The Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Local Planning Authority policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with and the site is safe for the development to proceed, it is essential that this condition is complied with before the development is commenced.

6. All development and associated remediation shall proceed in accordance with the recommendations of the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy, or unexpected contamination is encountered at any stage of the development process, works should cease and the Local Planning Authority and Environmental Protection Service (tel: 0114 273 4651) should be contacted immediately. Revisions to the Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order to ensure that any contamination of the land is properly dealt with.

7. No development shall commence until:

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure the site is safe for the development to proceed and the safety and stability of the proposed development, it is essential that this condition is complied with before the development is commenced.

8. Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the Local Planning Authority. The CEMP shall assist in ensuring that all site activities are planned and managed so as to prevent nuisance and minimise disamenity at nearby sensitive uses, and will document controls and procedures designed to ensure compliance with relevant best practice and guidance in relation to noise, vibration, dust, air quality and pollution control measures.

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

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

9. Prior to the installation of any commercial kitchen fume extraction system full details, including a scheme of works to protect the occupiers of adjacent dwellings from odour and noise, shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- a) Drawings showing the location of the external flue ducting and termination, which should include a low resistance cowl.
  - b) Acoustic emissions data for the system.
  - c) Details of any filters or other odour abatement equipment.
  - d) Details of the system's required cleaning and maintenance schedule.
  - e) (Optional: Details of a scheme of works to prevent the transmission of structure borne noise or vibration to other sensitive portions of the building).
- The approved equipment shall then be installed, operated, retained and maintained in accordance with the approved details.

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

10. Before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority, details of the proposed surfacing, layout and marking out of the car parking accommodation shall have been submitted to and approved in writing by the Local Planning Authority. The

nursery shall not be brought into use unless the car parking accommodation for nine vehicles has been provided in accordance with the approved plans and thereafter such car parking accommodation shall be retained for the sole use of the operation of the nursery.

Reason: To ensure satisfactory parking provision in the interests of traffic safety and the amenities of the locality.

11. 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 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.

12. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity

Reason: To ensure the site is safe for the development to proceed and the safety and stability of the proposed development

13. 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 development 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.

14. Upon completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. The development shall not be brought into use until the Validation Report has been approved in writing by the Local Planning Authority. The Validation Report shall be prepared in accordance with Contaminated Land Report CLR11 (Environment Agency 2004) and Sheffield City Council policies relating to validation of capping measures and validation of gas protection measures.

Reason: In order to ensure that any contamination of the land is properly dealt with.

15. 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.

16. Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. Thereafter, the development shall be carried out in accordance with the approved details.

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

17. A 1.7m high privacy screen fence shall be erected along the balcony's north-eastern corner and along the upper section of the external staircase prior to the building being brought into use, details of which shall first be submitted to and approved in writing by the Local Planning Authority, and thereafter be retained.

Reason: In the interests of residential amenity.

18. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until such time as a scheme to dispose of foul and surface water drainage, including any balancing works and off site works, has been submitted to and approved in writing by the Local Planning Authority. This development shall be implemented in accordance with this scheme thereafter.

Reason: To ensure satisfactory drainage arrangements.

### **Other Compliance Conditions**

19. The car park shall be constructed of permeable/porous materials only. Thereafter the approved permeable/porous surfacing material shall be retained.

Reason: In order to control surface water run off from the site and mitigate against the risk of flooding.

20. 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.

21. The children's nursery hereby approved shall only open between 0800 hours and 1800 hours Monday to Friday. The nursery shall not open on Saturday or Sunday or on Public holidays.

Reason: In the interests of protecting the residential amenity of neighbouring properties.

22. The development shall not be used for the purposes hereby permitted unless the scheme of sound attenuation works detailed in the approved Noise Assessment Report (ref: 03515-250100, dated: 09/06/2021, prepared by: BlueTree Acoustics) has been carried out as specified in the Report. Such works shall be thereafter retained.

Reason: In the interests of protecting the residential amenity of neighbouring properties

23. An integrated bat brick shall be incorporated within the fabric of the nursery building. The building shall not be occupied until the bat brick has been provided and thereafter retained.

Reason: In the interests of biodiversity

24. The development site shall not be cleared of vegetation and trees during the bird nesting season (March to August) unless a qualified ecologist has inspected the site in advance of site clearance and found no evidence of nesting birds.

Reason: In the interests of biodiversity and protection of nesting birds.

Attention is Drawn to the Following Directives:

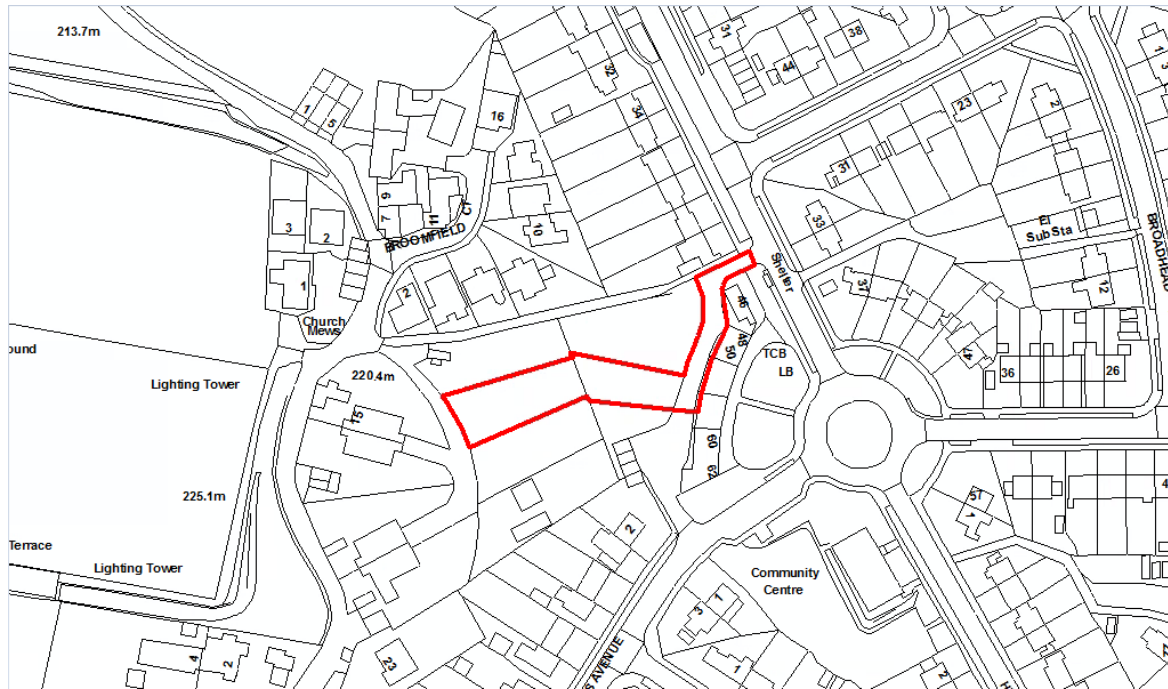
1. The Local Planning Authority has dealt with the planning application in a positive and proactive manner and sought solutions to problems where necessary in accordance with the requirements of the National Planning Policy Framework.
2. By law, this development requires the allocation of official, registered address(es) by the Council's Street Naming and Numbering Officer. Please refer to the Street Naming and Numbering Guidelines on the Council website here:

<https://www.sheffield.gov.uk/content/sheffield/home/roads-pavements/address-management.html>

The guidance document on the website includes details of how to apply, and what information we require. For further help and advice please ring 0114 2736127 or email [snn@sheffield.gov.uk](mailto:snn@sheffield.gov.uk)

Please be aware that failure to apply for addresses at the commencement of the works will result in the refusal of statutory undertakers to lay/connect services, delays in finding the premises in the event of an emergency and legal difficulties when selling or letting the properties.

## Site Location



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## LOCATION

This application relates to land to the rear of 15a Broomfield Road in Stocksbridge.

The application site is made up of two rectangular parcels of land, one forming the remote garden area of the main residential curtilage of 15a Broomfield Road and a further parcel of overgrown land that abuts along its eastern side. This second parcel of land is situated to the west of a service road that is used by retail and commercial units that front onto Lee Avenue.

The main part of the site measures approximately 16.7m by 39.2m (538 square metres). It is bound by dense shrubbery along its southern side, separating it from the detached rear garden area belonging to 19 Broomfield Road. To the north of the site is the detached rear garden of 15 Broomfield Road, beyond which is a public right of way (gennel) that connects Lee Avenue with Broomfield Road. To the north of the gennel are four detached dwellinghouses that front onto Broomfield Court.

The application site is detached from the main residential curtilage of 15a Broomfield Road by a private vehicular access road that currently serves four properties to the west. As described above, to the north and south of the site are two similarly sized garden areas, one of which (the southern plot) was granted full planning permission in February 2021 to erect a two-storey detached house, under planning ref. 20/03760/FUL.

The application site is situated in a Housing Area as identified on the UDP proposals Maps and lies within a Coal Mining High Risk Area.

## PROPOSAL

The applicant is seeking full planning permission to change the use of the land to a children's nursery (Use Class E), involving the erection of a two-storey building with associated parking and landscaping. The nursery would accommodate 46 children and babies. The opening hours would be 0800 hours -1800 hours (Monday to Friday), with no opening on weekends or public holidays.

The application has been amended during the course of the application with the re-positioning of the nursery building and reconfiguration of the car park.

## PROCEDURAL ISSUES

The Town and Country Planning (Use Classes) Order 1987 was amended in 2020, resulting in changes to the use classes. One of these changes recategorised Use Class D1 (Non-residential institutions) to Use Class E (Commercial, Business and Service). This came into force on the 1 September 2020.

## RELEVANT PLANNING HISTORY

20/03515/FUL Erection of children's nursery - Withdrawn

20/03760/FUL Erection of a dwellinghouse (Land to the rear of 19 Broomfield Road) - Approved 4 February 2021

17/02316/OUT Erection of a dwellinghouse with all matters reserved (Land to the rear of 19 Broomfield Road) - Approved 11 December 2017

## SUMMARY OF REPRESENTATIONS

The application has been subject to two rounds of consultation, firstly on validation and the second upon the receipt of amended plans in June 2021. In total 178 representations have been received, of which 94 are objecting to the application and 84 are in support.

First round of consultation:

Objections:

- Highway safety concerns. Broomfield Road is a narrow one-way street with no pavement.
- The development will cause congestion in the area.
- The nursery will compound existing traffic issues.
- The development will result in parking around Lee Avenue and the Stubbin Estate.
- While a nursery is a good idea, the location of a commercial use in a residential area is not suitable. There are other more suitable brownfield sites available in the local area.
- There is already adequate provision of nursery places in Deepcar/Stocksbridge
- The close proximity of the nursery to neighbouring properties will generate noise and disrupt the current peace and tranquillity of the area.



- Poor public transport in this area. Most people will need to drop off their children by car.
- The local community centre, with a car park, is a better location for the proposed use.
- The proposed boundary fence would run along the length of the garden of No. 15, which is a natural habitat for wildlife birds and plants. A bat survey should be carried out, particularly as bats are roosting within the roof spaces of Nos. 15 and 17.
- The building is of poor design.
- No use of sustainable renewable energy within the proposal.
- The proposed two-storey building overlooks in all directions, with no consideration of the amenities of neighbouring properties.
- The proposed fencing would be entirely inadequate and would be within 1m of the neighbouring garden.
- The garden attached to the plot was once a large orchard that dates back to the 1850s.
- The proposal raises security concerns.
- No details regarding drainage and surface water have been provided.

#### Support:

- Support the use of the site for a children's nursery due to upcoming developments of residential properties.
- More child places will be required as current childcare providers will soon become oversubscribed.
- Welcome the idea that someone wants to invest in this area of wasteland and provide a beautiful building.
- The building will knit the community together and bring much needed revenue to the local shops.

#### The second round of consultation:

Fourteen (14) letters were received in response to the second round of consultation.

#### Objections:

- The amendments do not address the concerns previously raised with regard to increase in traffic and noise disturbance from children.
- The noise report is very much in favour of the applicant. The test survey in Peterborough is an existing school that was converted into a nursery, therefore neighbours will always have experienced higher noise levels associated with the school.
- The average noise level readings from the Peterborough nursery referenced in the noise report were 67, 79, 69 and 53dB. The maximum accepted levels are 55dB and the survey shows that the Peterborough Nursery exceeds this. It is difficult to see how the noise levels will be below 55dB.
- The area is a quiet neighbourhood that would be disrupted with the onset of excessive road traffic/noise pollution.
- It is evitable that parents/carers will drive and park wherever the easiest access to

- the nursery is, i.e. how parents behave during local school peak times.
- The balcony will allow sound to travel

## 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 most recently updated in July 2021 (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.

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 13 of the NPPF confirms 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 most important local policies in the determination of this application revolve around residential amenity issues and highway related impacts.

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

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

- The Principle of Development – policy and land use
- Highway matters
- Design matters and impact on the character and appearance of the area

- Effect on the amenities of the occupiers of neighbouring property
- Coal mining legacy and land quality issues
- Ecology matters
- Other matters
- Community Infrastructure Levy (CIL)

## The Principle of Development – Policy and Land Use

The application site is located in a Housing Area as identified in the UDP. Under Policy H10 of the UDP, housing is the preferred use of land, with Community Facilities and Institutions (D1), such as children day nurseries, listed within the menu of acceptable uses. Children’s nurseries now fall within Use Class E of the Town and Country Planning (Use Classes) Order 1987.

Policy CF1 of the UDP relates to the provision of community facilities and details that the provision of community facilities, which are readily available to all Sheffield people will be promoted, particularly where they would be located where there is a shortage, be easily accessible by public transport and be located within the community they are intended to serve.

This policy is broadly in line with government guidance contained in paragraphs 92 and 93 of the NPPF. Paragraph 92 states that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, for example through mixed-use developments. Paragraph 93 states that to provide the social, recreational and cultural facilities and services, decisions should plan positively for the provision and use of shared spaces and community facilities (such as shops, meeting places, cultural buildings) and other local services to enhance the sustainability of communities and residential environments. The paragraph goes on to say at part d) that established facilities and services should be able to develop and modernise, to be retained for the benefit of the community.

The applicant states that there is a shortage of children’s day nurseries in Stocksbridge, and that the proposed nursery would cater for children at pre-school stage, toddlers and babies, including 16 places for 3-5 year olds, 12 places for 2-3 year olds, 9 places for 18 months-2 year olds and 9 places for 0-18 months.

The applicant says that there is only one other private nursery that would provide a similar service in Stockbridge/Deepcar, located on Manchester Road (Early Steps), and while there are other pre-school providers, they only cater for children aged 3-5 years.

It is considered that there is a shortage of children’s day nurseries in the surrounding area and that the proposal would increase the offer in the locality.

In relation to policies H10 and CF1 of the UDP, the proposal to erect a children’s nursery is considered to be acceptable in principle (subject to compliance with policy H14 – Conditions on Development in Housing Areas). The site is located in a sustainable location, close to public transport and ideally located to serve the local community. It is also considered that the proposed development would accord with government guidance contained in the NPPF at paragraphs 92 and 93.

## Highway Matters

UDP Policy H14 sets out at part (d) that, in Housing Areas, new development will be permitted provided that it would provide safe access to the highway network and be provided with appropriate off-street parking and not endanger pedestrians.

NPPF Paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed nursery's parking area would be accommodated on a rectangular parcel of land that would be situated to the east of the nursery building site. It would provide off-street parking for 9 vehicles. Access to the car park would be taken along the unadopted service road either from Lee Avenue to its north or south from Knowles Avenue.

From a highway perspective, the proposed development does not raise any significant concerns, with the proposed number of parking spaces likely to meet the expected parking requirements. Visibility onto both Lee Avenue and Knowles Avenue is good. It is not therefore considered that the development would lead to any significant demand for on-street parking or result in any conflict with vehicles when entering or leaving the site.

It is acknowledged that there have been a high number of highway related objections to the proposal. However, it is not considered that the proposal would have an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe. The proposed number of parking spaces is similar to other nursery sites and is unlikely to lead to any significant highway problems in connection with the use. The site is well served by public transport along Lee Avenue, with a bus stop immediately in front of the neighbouring shops. It is also envisaged that, in this location, some children would arrive with their parents on foot.

The Council's Highway Officers have raised no objection to the proposal subject to a condition that requires the car park to be laid out for nine vehicles in advance of the building being brought into use.

Based on the above, it is considered that the development would accord with UDP Policy H14 part d) and government guidance contained in paragraph 111 of the NPPF.

## Design Matters and the Impact on the Character and Appearance of the Area

The relevant policies of the development plan in respect of design and layout of new housing development are UDP Policies BE5, and H14, and Core Strategy Policy CS74.

Policy BE5 seeks to ensure good design and the use of good quality materials in all new and refurbished buildings and extensions. It states that original architecture will be encouraged where it does not detract from the scale, form and style of surrounding buildings, and that designs should take advantage of a site's natural features.

UDP Policy H14 part (a), states that new buildings should be well designed, in scale and character with neighbouring buildings.

Core Strategy Policy CS74 sets out the design principles that are expected in all new developments. It details that high quality development should respect, take advantage of and enhance the distinctive features of the city, its districts and neighbourhoods.

Chapter 12 of the NPPF (Achieving well-designed places) states that good design is a key aspect of sustainable development, which creates better places in which to live and work. Paragraph 130 states that, amongst other things, planning policies and decisions should ensure that developments function well and add to the overall quality of the area, and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

The proposed 2 storey nursery building would occupy the western end of the site towards the private driveway that serves 15-19 Broomfield Road, with the eastern side forming the outdoor play area. It would measure 16.3 (length) by 10.7m (depth) with a height of 4.95m (to its eaves) and 7.5m (to its ridge). It would be constructed with a split-levelled dual pitched roof and constructed with a combination of white and blue engineered masonry brickwork with feature cladding along the central parts of both its front and rear elevations.

Features of note include a raised balcony along the full width of its eastern elevation that would be enclosed by a masonry brick wall along its southern side and front acoustic timber railings. Two large bi-folding doors are proposed at ground floor level (front elevation) and two 3-pane patio doors that would lead out onto the raised balcony. Additional light would be provided with a series of roof lights within both roof slopes. Window frames would be uPVC and coloured dark grey.

It is considered that the proposed nursery building is of an acceptable design quality that would not harm the character or appearance of the surrounding area, which has a wide variety of building styles and forms and no prevalent character. It is also considered that the building is of acceptable scale and massing, commensurate with the size and footprint of the approved dwellinghouse on the adjacent site, with the split dual pitched roof helping to break-up the overall bulk of the building. The use of timber vertical cladding would also add interest to the appearance of the building and give the building more verticality.

It is not clear from the submitted plans where the division lies between the white and blue engineered brick, along the building's side elevations. It is considered that this transition would be improved by the introduction of a feature horizontal course, which has been accepted by the applicant and can be adequately controlled by planning condition.

#### Effect on the Amenities of the Occupiers of Neighbouring Property

Policy H14 part c) expects new development in Housing Areas to not deprive residents of light, privacy or security, while part k) states that new development should not lead to air pollution, noise, excessive traffic levels or other nuisance for people living nearby.

This policy is broadly in line with government guidance contained in the NPPF, where is

states at Paragraph 130 part (f) that decisions should ensure 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.

Also relevant is paragraph 185 of the NPPF, which states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life, as well as protect tranquil areas which have remained relatively undisturbed.

In terms of neighbouring properties, it is considered that the only properties directly affected by the development are No's 15-19 Broomfield Road, which are located across the private road to the west of the site, the first floor flats above the commercial units that front onto Lee Avenue, and the recently approved but unbuilt dwellinghouse to the south of the site. Apart from these properties, it is considered that all other neighbouring properties would be adequately distanced from the proposed nursery building to prevent any undue harm to the amenities of their occupants from unacceptable noise disturbance or loss of privacy.

The proposal has been amended during the course of the application, mainly as a response to concerns raised by officers regarding the siting of the nursery building. As submitted the proposed building was sited roughly centrally within the plot. However, the applicant agreed to reposition the building towards the western boundary to align with the approximate position of the dwellinghouse approved on its southern side. By doing so, it is considered that the proposed building would not have an overbearing impact when viewed from the rear garden of the approved house, or lead to any significant loss of light and outlook that would be harmful to this neighbouring property.

A screen wall is proposed to the southern side of the raised balcony. Without a suitable screen fence along the first floor balcony's north-eastern corner, it is considered that the development could lead to overlooking of the neighbouring garden area belonging to No. 15 Broomfield Road. It is therefore recommended that a 1.7m high privacy screen fence be erected along the north-eastern corner of the raised balcony and upper section of the external stairs adjacent to this neighbouring property.

In terms of Nos. 15-19 (inclusive), these four properties are located to the west of the development site, with the nearest of these (No. 15a) orientated towards the south-western corner of the site. The amended plan shows that the separation distance between the nearest part of the nursery building and the rear elevation of No. 15a would be a minimum of 21.05m. This distance, together with the proposed outdoor play being located on the reverse (eastern) side of the building, should mean that any impact on these properties would not be significant.

It is considered that the main amenity issue relates to noise, with the property most affected by the development being the unbuilt house to the south, and to a lesser extent the remote garden area of 15 Broomfield Road. As stated above, it is considered that the existing dwellinghouses to the west of the site (Nos. 15-19) would be adequately

separated from the site to prevent these being subject to any significant noise disturbance that would harm their residential amenity. The main play area would be over 30m from these properties, a distance that should prevent any significant disamenity from noise disturbance when the children are using the outdoor play area or raised balcony.

To assess the effects of noise, the applicant commissioned Blue Tree Acoustics to undertake a noise assessment of the proposal, which is set out in the supporting Noise Assessment Report (reference 03515-250100 – dated 09/06/2021).

This report states that noise monitoring was carried out to establish the existing background noise climate at the nearest noise-sensitive properties during the proposed nursery uses operating times. In addition, representative sound levels during a typical day at a children's' nursery in Peterborough were used as source sound level data, which was gathered in connection with an appeal against the refusal of planning permission (Planning appeal reference No. APP/J0540/W/19/3238406).

The existing noise sources in the surrounding area derive from the surrounding highway network, and from the neighbouring residential and commercial uses, as well as from school children, as the site is on a route taken by children to and from school, and to the local shops.

The report details that the development will generate noise from activity within the building, as well as activities in the external play area to the east of the building and on the 1<sup>st</sup> floor outdoor platform. However, noise generated within the building will be mostly attenuated by the building structure itself, and even with open windows and doors, internal noise within the building is insignificant compared to noise generated externally. Another area for noise is the proposed car parking area. However, the report details that this is unlikely to be significant as the access to the car park is already frequently used for parking and given the distance of the car park to neighbouring properties.

British Standard BS8233 states that for traditional external amenity areas, such as gardens, it is desirable that the external noise level does not exceed 50dB LAeq, with an upper guideline value of 55dB LAeq in noisier environments.

It has been modelled that, based on a 2.2m high acoustic barrier surrounding the play area and a 2.2m high acoustic barrier around the remainder of the site, the garden to the south would not experience noise levels higher than 55dB LAeq. Part of the land to the north would experience levels up to 57dB LAeq, although the majority of the area would be less than 55dB LAeq. These levels are based on a scenario of 28 children being outside at the same time, 18 within the external play area and 10 on the raised platform. The report details that the frequency of this amount of children being outside at the same time is likely to be low, with large periods of the day likely to have significantly fewer children outside if any, and therefore likely lower noise levels than the figures modelled. The report concludes that the noise generated from the nursery, including car and car parking noise, as calculated at the nearest residential properties, is predicted to meet the relevant residential noise criteria recommended in BS8233:2014.

This report has been inspected by the Environmental Protection Service (EPS) who have stated that, subject to the erection of acoustic fencing that would include 2.2m high acoustic fencing along part of the shared boundary, noise levels associated with the use

should achieve the 55dB criterion. A lower external noise level would be achieved at the nearest sensitive receptors if the acoustic screening is erected at a height of 2.4m in these areas.

While it is accepted that noise from external play is inevitable and lead to some disamenity, it has been found that this is unlikely to be significant or for long periods that would be harmful to the amenity of the site's immediate neighbours. It is not unusual for small children's' nurseries to be located within residential areas, as evidenced by their inclusion within the list of acceptable uses under UDP Policy H10. They are not incompatible uses in residential areas and, with sufficient mitigation measures, they can comfortably co-exist alongside residential properties without leading to significant harm to residential amenities.

In officers' opinion, it is not considered necessary to increase the acoustic fencing to 2.4m in height, which would achieve lower noise levels at the nearest sensitive receptors, but by doing so would have a greater visual impact on the two adjacent gardens.

The children's nursery would operate between the hours of 0800 and 1800 hours (Monday to Friday) and would be closed at weekends and Public Holidays. The opening times would therefore coincide with normal working hours and be closed when residents would expect a higher level of amenity in the early mornings, during the evening and night time hours and at weekends.

It is also material in officers' opinion that the orchard belonging to No. 15 Broomfield Road, to the north, is not the main garden area of this property. As stated previously, this part of the garden is remote from their main residential curtilage, and as evidenced at the time of the officer's site visit, the land was overgrown and unlikely to be an area where residents would spend large amounts of time. Consequently it is considered that the degree of protection that this land should be afforded is less than if the land formed the main garden area of this property.

It is considered that the flats above the Lee Avenue shops are adequately distanced from the nursery building to prevent any significant disamenity from noise disturbance. Use of the car park may give rise to some noise given its proximity to the flats (approximately 7m), but this would not be significant or harmful given that the rear service road is already frequently used for parking and access for deliveries.

It is therefore considered that UDP Policy H14 and government guidance contained in paragraphs 130 and 185 of the NPPF are met.

#### Coal Mining Legacy and Land Quality Issues

The application site falls within a Development High Risk Area for former coal mining activity, an area where there are coal mining features and hazards which need to be considered as part of the planning process. The Coal Authority records indicate that the site lies in an area where recorded shallow coal mining has taken place as well as the likely occurrence of historic unrecorded shallow coal mining activity.

The application was accompanied by a Coal Mining Risk Assessment report prepared by Earth Environmental & Geotechnical Ltd (dated November 2020). This report



acknowledges that coal is recorded as having been worked beneath the site, but concludes that due to their depth, these workings should not influence surface stability. The report does however state that, owing to possible unrecorded mine workings within a shallower seam, and a band of ironstone, there is a risk to the development that requires intrusive ground investigations to be carried out.

The Coal Authority is satisfied with the report's findings and welcomes the recommendations of the report for the undertaking of intrusive site investigations. The Coal Authority raised no objections subject to the imposition of conditions to secure a scheme of intrusive investigations and a signed declaration from a suitably competent person confirming that the site is, or has been made safe and stable in advance of the building being brought into use.

As a result of the past and probable shallow coal mining activities there exists a potential for mines gases to impact upon the proposed development, causing risk to human health. As the supporting coal mining risk assessment report fails to make recommendations for gas monitoring should evidence of coal workings be found, it is considered necessary to secure a mines gas risk assessment by planning condition.

#### Ecology Matters

It is considered that the site has low ecology value. As set out in the Construction Environmental Management Plan (CEMP), the site is made up of amenity grassland, shrub and scattered trees. These are considered sub-optimal in a local context to provide major foraging or commuting habitat for bats. The site also has limited habitat potential for badgers (sett building and foraging). No signs of badger activity were recorded during a site survey, with the species considered to be absent from site.

The CEMP recommends that the development be carried outside of the bird nesting season, and for biodiversity enhancement the development should incorporate integrated bat bricks within the building. These matters can be conditioned.

#### Other Issues

The applicant submitted a CEMP prepared by Estrada Ecology Ltd (Reference SQ-159 dated 12/05/2021) that sets out measures that would be implemented during the construction phase to prevent nuisance and minimise disamenity at nearby sensitive uses. This CEMP has been inspected by the Environmental Protection Service, and while it has been found to be generally acceptable, there are elements within the document such as hours of construction that have not been agreed by EPS. As such, it is considered that an amended CEMP should be submitted for approval secured by condition.

The proposed nursery use is likely to include externally mounted plant and equipment for air handling/ cooling applications and/ or mechanical services. It is necessary therefore that noise impacts on off-site sensitive receptor positions be considered in specifying and siting of any external or externally venting plant on the building. This can be suitably controlled by condition.

The development includes a kitchen. It is therefore necessary that careful consideration be given to how fumes will be ducted to achieve suitable dispersion to prevent disamenity

from noise and odours from any proposed fume extraction system. This again can be suitably controlled by condition.

No details of how surface water drainage would be managed has been provided with the application. It is therefore recommended that a condition be attached that requires details of surface water drainage to be submitted for approval.

#### Community Infrastructure Levy

The Council has adopted a Community Infrastructure Levy (CIL) to provide infrastructure to support new development.

Whilst all new development (of 100 sqm or more) is CIL liable, in Sheffield the charges are not applied to children's nurseries.

#### SUMMARY AND RECOMMENDATION

The application site relates to land situated to the rear of 15a Broomfield Road and to the rear of a service road that extends behind retail and commercial units at Lee Avenue. The application site is situated in a Housing Area and lies within a Coal Mining High Risk Area.

The applicant is seeking full planning permission to change the use of the land to a children's nursery (Use Class E) involving the erection of a two-storey building with associated parking and landscaping. The nursery would accommodate 46 children and babies. The opening hours would be 0800-1800 (Monday to Friday) with no opening on weekends or public holidays.

The proposal to change the use of the land and erect a two-storey children's day nursery that would serve the local community would accord with policies H10 and CF1 of the UDP.

It is considered that the proposal would not be detrimental to highway safety or result in any significant noise disturbance that results in significant harm to the residential amenity of neighbouring properties.

The building is considered to be of acceptable design quality that would not harm the character or appearance of the surrounding area.

For the reasons set out in the report, and having regard all other matters, it is considered that the proposal represents an appropriate form of development and would be in general accordance with policies H10, H14, BE5 and CF1 of the UDP and government policy contained in the NPPF.

It is therefore recommended that the application be approved subject to the proposed conditions.