



# Doncaster Council

## Agenda

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To all Members of the

## **PLANNING COMMITTEE**

Notice is given that a Meeting of the above Committee is to be held as follows:

**Venue:** Council Chamber, Civic Office, Waterdale, Doncaster DN1 3BU

**Date:** Tuesday, 28th June, 2022

**Time:** 2.00 pm

**PLEASE NOTE:**

The wearing of face coverings within the Civic Building is encouraged however, it is a personal choice and no longer a mandatory requirement. For those who have any concerns about their safety or wish to take additional precautions during the meeting, face masks, hand sanitiser and anti-bacterial wipes are available should you require them.

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**Damian Allen**  
**Chief Executive**

Issued on: Monday, 20 June 2022

**Governance Services Officer for this meeting**

David Taylor  
Tel: 01302 736712

**Doncaster Metropolitan Borough Council**  
**[www.doncaster.gov.uk](http://www.doncaster.gov.uk)**

1. Apologies for Absence.
2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.
3. Declarations of Interest, if any.
4. Minutes of the Planning Committee Meeting held on 31 May, 2022. 1 - 6
- A. Reports where the Public and Press may not be excluded.**  
**For Decision**
5. Schedule of Applications. 7 - 48  
**For Information**
6. Appeal Decisions. 49 - 78

### **Members of the Planning Committee**

Chair – Councillor Susan Durant  
Vice-Chair – Councillor Duncan Anderson

Councillors Bob Anderson, Iris Beech, Steve Cox, Aimee Dickson, Sue Farmer, Charlie Hogarth, Sophie Liu, Andy Pickering and Gary Stapleton

# Public Document Pack Agenda Item 4.

## DONCASTER METROPOLITAN BOROUGH COUNCIL

### PLANNING COMMITTEE

TUESDAY, 31ST MAY, 2022

A MEETING of the PLANNING COMMITTEE was held in the COUNCIL CHAMBER, CIVIC OFFICE, WATERDALE, DONCASTER DN1 3BU on TUESDAY, 31ST MAY, 2022, at 2.00 pm.

#### PRESENT:

Chair - Councillor Susan Durant  
Vice-Chair - Councillor Duncan Anderson

Councillors Bob Anderson, Iris Beech, Steve Cox, Sue Farmer, Sophie Liu, Andy Pickering and Gary Stapleton.

#### APOLOGIES:

Apologies for absence were received from Councillors Aimee Dickson and Charlie Hogarth.

#### 1 Declarations of Interest, if any

In accordance with the Members' Code of Conduct, the Councillor Gary Stapleton declared an interest in relation to Application No. 21/01536/FUL, Agenda Item No. 5(1) and took no part in the discussion at the meeting and vacated the room during consideration thereof.

#### 2 Minutes of the Planning Committee Meeting held on 26th April, 2022

RESOLVED that the minutes of the meeting held on 26th April, 2022 be approved as a correct record and signed by the Chair.

#### 3 Schedule of Applications

RESOLVED that upon consideration of a Schedule of Planning and Other Applications received, together with the recommendations in respect thereof, the recommendations be approved in accordance with Schedule and marked Appendix 'A'.

#### 4 Appeal Decisions

RESOLVED that the following decision of the Secretary of State and/or his Inspector, in respect of the undermentioned Planning Appeal against the decision of the Council, be noted:-

<b>Application No.</b>	<b>Application Description &amp; Location</b>	<b>Appeal Decision</b>	<b>Ward</b>	<b>Decision Type</b>	<b>Committee Overturn</b>
20/02621/FUL	Change of use from nursery and 3-bedroom apartment to five 1-bedroom apartments at 14 Swan Street, Bawtry, Doncaster, DN10 6JQ	Appeal Dismissed 16/05/2022	Rossington & Bawtry	Delegated	No
21/02558/FUL	Erection of 1.9m high close boarded timber fence (Retrospective) at 112 Markham Avenue, Carcroft, Doncaster, DN6 8DZ	Appeal Dismissed 29/04/2022	Adwick Le Street & Carcroft	Delegated	No
20/00433/M	Appeal against enforcement action for alleged unauthorised installation of pump under grounds (a, c & f) at 6 Shires Close, Sprotbrough, Doncaster, DN5 7RG	ENF- Appeal Dismissed, ENF Notice Upheld 16/05/2022	Sprotbrough		No
21/03324/ADV	Installation of single illuminated 48-sheet digital advertisement display at Land At York Road, Doncaster, DN5 9AY	Appeal Dismissed 29/04/2022	Bentley	Delegated	No
21/02309/FUL	Installation of wood burning stove and flue to outbuilding (retrospective) at Aberdeen Bungalow, Drake Head Lane,	Appeal Dismissed 12/05/2022	Conisbrough	Committee	Yes

	Conisbrough, Doncaster				
21/00192/M	Appeal against enforcement notice at Aberdeen Bungalow, Drake Head Lane, Conisbrough, Doncaster	ENF- Appeal Dismissed, ENF Notice Upheld 12/05/2022	Conisbrough		No

5 Planning Enforcement Quarterly Report - March 2022

The Committee considered a report which detailed all Planning Enforcement performance in the fourth Quarter of 2021/22.

During consideration of the report, the Vice-Chair, Councillor Duncan Anderson, sought clarification with regard to process by which Councillors were routinely informed of the status and progress of an Enforcement Enquiry they had reported relating to an alleged breach of planning control. In response, the Team Manager for the Planning Enforcement Team, Scott Forbes, stated that his Officers within the Planning Enforcement Team endeavoured to ensure that Councillors were updated on the progress of their Enforcement Enquiry. He outlined that initially, the Councillor would receive an email from the Investigating Officer explaining that the investigation had commenced and that further emails would be sent with important updates. However, he stressed that if a Councillor had not received a recent update, they should email the Investigating Officer and, if the Councillor did not receive an update within a week, the Councillor should forward a copy of the 'Request an Update' email to himself as the Team Manager, who would discuss the matter with the Officer and ensure that a response was provided.

In response to Committee Members seeking further clarification of the Enforcement Enquiry reporting procedure, Scott Forbes reported that the member of the public should report the enquiry directly to the TSI/Planning Enforcement Team using the online planning enforcement complaint portal on the Council's planning web-site (i.e. [www.doncaster.gov.uk/doitonline/planning-enforcement-complaint](http://www.doncaster.gov.uk/doitonline/planning-enforcement-complaint)). This method would ensure that the individual would be contacted directly by the Officer dealing with the case, which would also provide a direct method of providing information and allow updates to be requested. In addition, if the member of the public did not wish to provide their details, or did not have access to the internet, they could request that their Local Ward Councillor report the enquiry on their behalf, either using the preferred corporate 'Councillor on-line reporting system' or again using the online planning enforcement complaint portal on the Council's planning web-site.

Members were reminded that once a complaint was registered under the Councillors' name, not the member of the public, they would become the single point of contact for the specific investigation and receive emails on the progress

of the enquiry. This would then require the Councillor to keep the member of the public updated, as required.

In concluding discussion on the debate, the Chair, Councillor Susan Durant, proposed that an informal meeting be arranged for Members of the Planning Committee and Cabinet Members, involving Officers from the Planning, Planning Enforcement, Conservation, Tree and Highways Teams, to consider in further detail, the Enforcement Enquiry procedures relating to alleged breaches of planning control, why certain items required enforcement action in conservation areas (i.e. boundary walls/driveway access that would reduce the need for vehicles being parked outside on the road) and general outstanding cases including matters relating to the Tree & Highways Teams.

In response to Councillor Iris Beech seeking clarification with regard to the current status and progress of a case relating to several advertisement boards being displayed by the owner of a premises on Selby Road, Askern, the Team Manager for the Planning Enforcement Team, Scott Forbes, reported that the issue had been brought to the Enforcement Team's attention approximately one week ago by Councillor Austen White. Subsequently, a site investigation was undertaken which established that, as there were relevant breaches of planning control, enforcement action was being proposed if the owner failed to seek planning permission or did not remove the signs.

RESOLVED that

- (1) the report on Planning Enforcement performance in the fourth Quarter of 2021/22, be noted; and
- (2) an informal meeting be arranged for Members of the Planning Committee and Cabinet Members involving Officers from the Planning, Planning Enforcement, Conservation, Tree and Highways Teams, to consider in further detail, the Enforcement Enquiry procedure relating to an alleged breaches of planning control and other relevant matters.

### DONCASTER METROPOLITAN BOROUGH COUNCIL

<b>PLANNING COMMITTEE – 31st May, 2022</b>
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<b>Application</b>	1
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<b>Application Number:</b>	21/01536/FUL
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<b>Application Type:</b>	Section 73 Application
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<b>Proposal Description:</b>	Section 73 application to vary Conditions 2 (Approved Plans) and 11 (wall thickening and part demolition) of Planning Application 16/02725/FUL, granted on 09.01.2017.
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<b>At:</b>	1 Thorne Hall Court, Ellison Street, Thorne, DN8 5LE
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<b>For:</b>	Mr Frazer Fillingham (agent), on behalf of Mr Alex Cutts (applicant)
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<b>Third Party Reps:</b>	29 representations	<b>Parish:</b>	Thorne
		<b>Ward:</b>	Thorne & Moorends

**A proposal was made to grant the Section 73 Application to vary Conditions 2 and 11.**

**Proposed by: Councillor Susan Durant**

**Seconded by: Councillor Duncan Anderson**

**For: 8    Against: 0    Abstain: 0**

**Decision: Planning permission granted to vary Conditions 2 (approved plans) and 11 (wall thickening and part demolition) of planning application 16/02725/FUL, granted on 09.01.2017, subject to the amendment of Conditions 2 to read as follows:-**

- 02. Within 6 months from the date of this permission, the works detailed in the submitted structural survey Appendix 2 drawings SE01, SE02, SE03 and SE04 shall be carried out and completed to the satisfaction of the Local Planning**

**Authority. Prior to these works commencing, details including proposals for making good, cleaning of brickwork and repointing and capping to the wall shall be submitted to and approved in writing by the Local Planning Authority. Capping of the wall shall be in natural stone and a sample of the stone to be used for any new cappings shall be provided onsite for the inspection of the Local Planning Authority prior to works commencing. Where the wall has previously been reduced and capped in concrete slabs, the concrete slabs shall be removed and replaced with natural stone. The development shall be carried out in accordance with the agreed details.**

**REASON**

**To protect the setting of the listed building and to preserve the character and appearance of the conservation area.**

**In accordance with Planning Guidance 'Having Your Say at Planning Committee', Mr Neil Martin spoke in opposition to the reduction of any of the wall height for the duration of up to 5 minutes.**

**In accordance with Planning Guidance 'Having Your Say at Planning Committee', Mr Gary Flavell and Mr Mulligan, spoke on behalf of Mr Paul Wallace in support of reducing the wall height for the duration of up to 5 minutes.**

**(The receipt of the amendment to the Planning Application Proposal Description, an amendment to Condition 2, an additional representation from a Local Ward Member, Councillor Mark Houlbrook, in support of Mr Neil Martin's opposition to the reduction of any of the wall height and a further representation from Mr Neil Martin, were reported at the meeting).**



## **DONCASTER METROPOLITAN BOROUGH COUNCIL**

To the Chair and Members of the  
**PLANNING COMMITTEE**

### **PLANNING APPLICATIONS PROCESSING SYSTEM**

Purpose of the Report

1. A schedule of planning applications for consideration by Members is attached.
2. Each application comprises an individual report and recommendation to assist the determination process. Any pre-committee amendments will be detailed at the beginning of each item.

### **Human Rights Implications**

Member should take account of and protect the rights of individuals affected when making decisions on planning applications. In general Members should consider:-

1. Whether the activity for which consent is sought interferes with any Convention rights.
2. Whether the interference pursues a legitimate aim, such as economic well being or the rights of others to enjoy their property.
3. Whether restriction on one is proportionate to the benefit of the other.

### **Copyright Implications**

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Scott Cardwell  
Assistant Director of Economy and Development  
Directorate of Regeneration and Environment

Contact Officers: Mr R Sykes (Tel: 734555)

Background Papers: Planning Application reports refer to relevant background papers

## Summary List of Planning Committee Applications

NOTE:- Site Visited applications are marked 'SV' and Major Proposals are marked 'M'  
Any pre-committee amendments will be detailed at the beginning of each item.

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Application	Application No	Ward	Parish
1. M	19/01835/FULM	Tickhill And Wadworth	
2.	21/02399/FUL	Wheatley Hills And Intake	

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<b>Application</b>	1.
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<b>Application Number:</b>	19/01835/FULM
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<b>Application Type:</b>	Full Planning Permission
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<b>Proposal Description:</b>	Erection of 27 dwellings on approx 0.913 ha of land.
<b>At:</b>	1 Fulwood Drive Balby Doncaster DN4 8QH

<b>For:</b>	Mr James Blunt - Hooper Limited
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<b>Third Party Reps:</b>	36 Letters of objection.	<b>Parish:</b>	None
		<b>Ward:</b>	Tickhill And Wadworth

<b>Author of Report:</b>	Garry Hildersley
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## SUMMARY

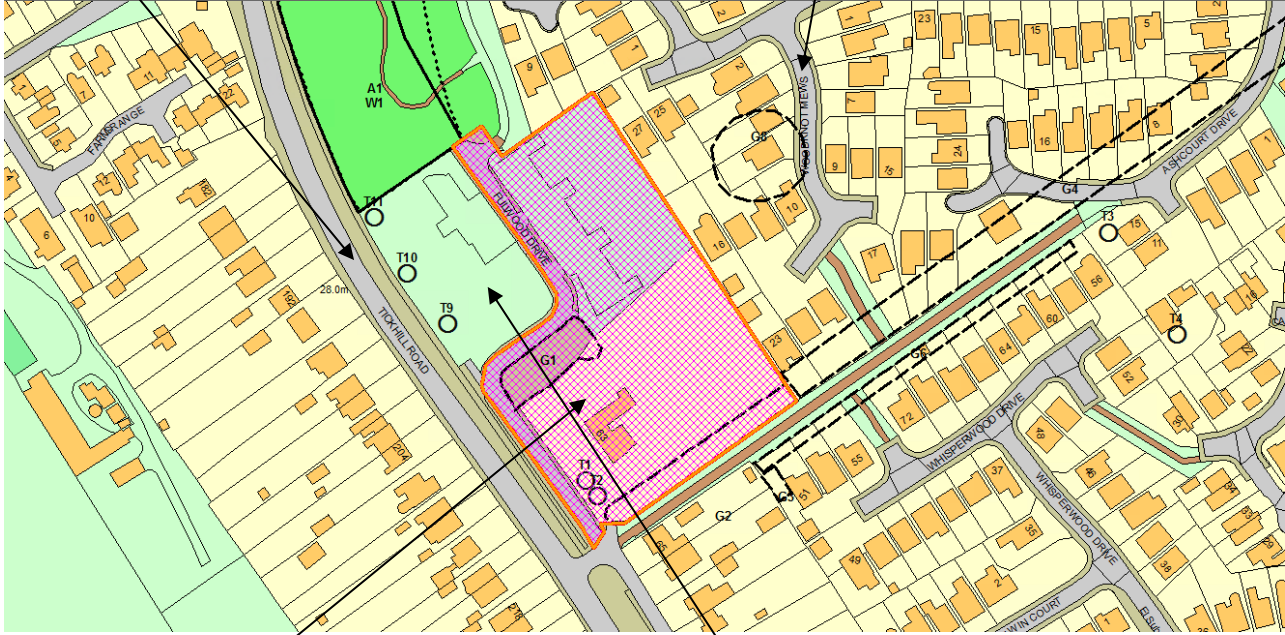
The proposal seeks full planning permission for the erection of 30 dwellings within Residential Policy Area. The proposal is considered to be acceptable in policy terms being designated as Residential Policy Area within the Local Plan and is therefore considered to be an acceptable and sustainable form of development in line with paragraphs 7 and 8 of the National Planning Policy Framework (NPPF, 2021).

The report demonstrates that any harm generated by the proposal is outweighed by other material planning considerations. The development would not cause undue harm to neighbouring properties, the highway network, trees or the wider character of the area subject to suitably worded conditions.

**RECOMMENDATION: GRANT subject to conditions and signing of a Section 106 agreement.**

Tickhill Road

Woodknot Mews



Application Site

2016 approval for the erection of 3 pairs of semi detached dwellings and 1 row of townhouses (16/00209/FUL).

## **1.0 Reason for Report**

- 1.1 This application is being presented to Planning Committee due to the level of public opposition.

## **2.0 Proposal and Background**

- 2.1 The proposal seeks full planning permission for the erection of 27 dwellings, together with suitable landscaping and parking arrangements. The scheme has been amended several times to take account of comments received by Doncaster's Tree Officer, Urban Design Officer and Highways Officer. The proposal has been reduced from the 30 dwellings initially proposed to 27.

## **3.0 Site Description**

- 3.1 The site lies to the south of Balby and adjacent to the A60 (Tickhill Road). The site is currently bound by a 6ft high close boarded wooden fence that runs adjacent with Fulwood Drive. It appears to be an unkempt parcel of land that has been subject to the dumping of material, resulting in higher than normal land levels. A topographical survey has been submitted as part of the application.
- 3.2 Located centrally within the site lie a number of mature trees. Additional mature trees are located along the southern boundary adjacent to a public footpath.
- 3.3 8 dwellings have been constructed towards the north western corner of the site and these have a modern appearance of red multi brick and white render with white UPVC windows. The western boundary would adjoin a much larger housing development site being Woodfield Plantation and these properties are also modern dwellings predominantly 2 storey in nature. On the opposite side of the A60 lie traditional semi-detached & detached dwellings predominantly of red brick with some variation to their appearance along the street.

## **4.0 Relevant Planning History**

- 4.1 In 2014 planning permission was sought for 40 dwellings on approximately 1.15ha of land following the demolition of existing buildings (reference 14/02181/FULM) however this application was withdrawn and therefore a planning decision was not issued.
- 4.2 In 2016 planning permission was granted on the adjacent site (west of Fulwood Drive) for the erection of 3 pairs of three bedroom semi-detached houses, 1 row of 3 three bedroom townhouses and 2 detached double garages on approx 0.26 ha of land. The planning reference number is 16/00209/FUL. These properties have now been built.

## **5.0 Site Allocation**

- 5.1 The site falls within Residential Policy Area, as defined by the Doncaster Local Plan (adopted in 2021).

## **5.2 National Planning Policy Framework (NPPF 2021)**

- 5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:
- 5.4 Paragraph 2 states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.5 Paragraphs 7 – 11 establish that all decisions should be based on the principles of a presumption of sustainable development.
- 5.6 Paragraph 47 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.7 Paragraphs 55 and 56 states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.8 Paragraph 111 states that 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.
- 5.9 Paragraph 119 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.10 Paragraph 124 states that planning policies should support the development that makes efficient use of land when taking into account the identified need for different types of housing and other forms of development.
- 5.11 Paragraph 130 states planning decisions should, amongst other things, ensure developments will function well and add to the overall quality of the area, are visually attractive and optimise the potential of the site and are sympathetic to local character and history. Subsection 130 requires developments to be made safe, inclusive and accessible.
- 5.12 Paragraph 174 states planning policies and decisions should contribute to and enhance the natural and local environment, including preventing new and existing development from being put at unacceptable risk from land instability.
- 5.13 Paragraph 183 states planning policies and decisions should ensure that a site is suitable taking account of ground conditions and any risks arising from land instability and contamination.

5.14 Paragraph 184 states where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

### 5.15 **Local Plan**

5.16 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster includes the Doncaster Local Plan (adopted 23 September 2021).

5.17 The following Local Plan policies are the most relevant in this case:

5.18 Policy 7 sets out the requirements for the range of housing including the need for affordable housing.

5.19 The site lies within a Residential Policy Area according to Policy 10. This policy supports new residential development providing it, amongst other matters, protects and enhances the qualities of the existing area and contribute to a safe, healthy and prosperous neighbourhood.

5.20 Policy 13 relates to sustainable transport within new developments. Part A.6 states that proposals must ensure that the development does not result in an unacceptable impact on highway safety, or severe residual cumulative impacts on the road network. Developments must consider the impact of new development on the existing highway and transport infrastructure.

5.21 Policy 16 seeks to consider the needs of cyclists within new developments.

5.22 Policy 28 deals with open space provision in new developments.

5.23 Policy 30 deals with the need to value biodiversity.

5.24 Policy 32 states that the design process should consider woodlands, trees and hedgerows.

5.25 Policy 41 relates to character and local distinctiveness and states that development proposals will be supported where they recognise and reinforce the character of local landscapes and building traditions; respond positively to their context, setting and existing site features as well as respecting and enhancing the character of the locality. Developments should integrate visually and functionally with the immediate and surrounding area at a street and plot scale.

5.26 Policy 42 requires proposals to reflect and respect character and local distinctiveness. In all cases, the components of a development must be designed and assessed to ensure that, amongst other things, it provides safe and secure private property, public areas and the adoptable highway ensuring access points.

5.27 Policy 44 relates to residential design and sets out the key design objectives which residential development must achieve, as well as stating that all developments must protect existing amenity and not significantly impact on the living conditions or privacy of neighbours.

- 5.28 Policy 48 states that development will be supported which protects landscape character, protects and enhances existing landscape features, and provides a high quality, comprehensive hard and soft landscape scheme.
- 5.29 Policy 55 deals with the need to mitigate any contamination on site.
- 5.30 Policy 56 requires the need for satisfactory drainage including the use of SuDS.
- 5.31 Policy 58 deals with low carbon and renewable energy within new developments.
- 5.32 Policy 65 deals with developer contributions.

### **5.33 Other material planning considerations and guidance**

- 5.34 Doncaster Council's previous suite of adopted Supplementary Planning Documents (SPDs) have been formally revoked in line with Regulation 15 of the Town and Country Planning (Local Planning) (England) Regulations 2012, following the adoption of the Local Plan. The SPDs refer to superseded development plan policies, and some provide guidance which is not in accordance with the new Local Plan. The Transitional Developer Guidance (April 2022) provides guidance on certain elements, including design, during the interim period, whilst new SPDs to support the adopted Local Plan are progressed and adopted. The Transitional Developer Guidance, Carr Lodge Design Code and the South Yorkshire Residential Design Guide (SYRDG), should be treated as informal guidance only as they are not formally adopted SPDs. These documents can be treated as material considerations in decision-making, but with only limited weight.

## **6.0 Representations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) by means of site notice, council website, press advertisement and neighbour notification.

- 6.2 36 representations have been received raising the following issues:

- Concerns in relation to boundary treatments
- Concerns in relation to overlooking
- Concerns in relation to the maintenance and upkeep of gate
- Concerns with traffic increases
- Concerns in relation to highway safety
- Concerns in relation to air quality
- Concerns in relation to impact on wildlife
- Concerns in relation to width off access roads
- Concerns in relation to education provision
- Concerns that the proposal will reduce light levels and concerns about lack of sunlight assessment.
- Concerns in relation to loss of privacy
- Concerns in relation to noise
- Concerns about planting of trees proposed.
- Concerns about the parking layout
- Concerns in relation to overshadowing



- Concerns that the proposal would be out of character
- Concerns that the correct publicity has not been undertaken
- Concerns that some trees have been cleared from the site.
- Concerns in relation to drainage

6.3 The following non material objections were raised for which no weight can be afforded:

- Pervious civil agreements
- Devaluation of property
- Concerns in relation to a loss of view

## 7.0 **Relevant Consultations**

### 7.1 **DMBC Highways DC:**

Initially objected to the scheme but as a result of the amended plans/information has been able to remove their objection subject to condition(s).

### 7.2 **National Grid:**

Identified potential pipelines, however the applicant has confirmed that these have been identified and disconnected.

### 7.3 **Yorkshire Water:**

Raise no objection.

### 7.4 **DMBC Ecology:**

Originally requested a Preliminary Ecology Assessment and Biodiversity Net Gain assessment. These have been carried out and no objections have been received subject to conditions.

### 7.5 **DMBC Tree Officer:**

Initially objected to the scheme but as a result of the amended plans/information has been able to remove their objection subject to condition(s).

### 7.6 **DMBC Pollution Control:**

No objection subject to condition

### 7.7 **DMBC Urban Design:**

Initially objected to the scheme but as a result of the amended plans/information has been able to remove their objection subject to condition(s).

### 7.8 **SY Architectural Liaison Officer:**

No objections subject to informative

**7.9 SY Archaeological Service (SYAS):**

No response received.

**7.10 Environment Agency:**

No response received. The site lies within Flood Zone 1 as defined by the EA Flood maps

**7.11 SY Passenger Transport Executive:**

No response received.

**7.12 DMBC affordable housing:**

No objections.

**7.13 DMBC Air Quality:**

Initially objected to the scheme but as a result of the amended plans/information has been able to remove their objection subject to condition(s).

**7.14 DMBC Internal Drainage:**

Initially objected to the scheme but as a result of the amended plans/information has been able to remove their objection subject to condition(s).

**7.15 DMBC Education:**

No objections but require S106 contributions in respect of secondary school places.

**7.16 DMBC Open Space:**

Requirement for 15% on site Public Open Space. Unable to provide this due to site constraints and as such a commuted sum to be paid in lieu.

**7.17 DMBC Conservation officer:**

No direct impact on heritage assets.

**7.18 DMBC Transportation:**

No objection subject to condition.

**8.0 Assessment**

8.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

*'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.*

- 8.2 The NPPF at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.
- 8.3 This report considers the proposal against the Development Plan (Doncaster Local Plan, Joint Waste Plan), the relevant sections of the NPPF and the National Planning Practice Guidance.
- 8.4 The main issues are:
- The acceptability of residential development
  - The impact on the character of the area
  - The impact on neighbouring residential properties
  - The impact on the highway network and highways standards
  - The impact on the existing trees
  - The impact on the ecology of the site
  - Flooding and Drainage issues
  - Financial contributions
- 8.5 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:
- Substantial
  - Considerable
  - Significant
  - Moderate
  - Modest
  - Limited
  - Little or no

### **Principle of Development**

- 8.6 The NPPF seeks to significantly increase the overall quantity and quality of housing and to ensure that it is built in sustainable locations. Dealing simply with the principle of development, it is considered that the proposal would be in conformity with the Local Plan and National Planning Policy objectives and as such is considered acceptable in principle. This weighs considerably in favour of the application.

### **Sustainability**

- 8.7 The National Planning Policy Framework (NPPF 2021) sets out at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs
- 8.8 There are three strands to sustainability, social, environmental and economic. Para.10 of the NPPF states that in order sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.

## **SOCIAL SUSTAINABILITY**

### Impact on neighbouring residential amenity

- 8.9 A number of objections have been received in relation to the potential impact of the development on neighbouring properties in terms of overlooking, loss of privacy and overshadowing/loss of light. The properties most likely to be affected by the development are those located on the north & north eastern boundary of the site as well as existing properties on Fulwood Drive (1 – 9).
- 8.10 The Council has published Transitional Developer Guidance (TDG, April 2022) but this is not an SPD, nor will it be adopted as one. It is guidance to inform developers, applicants and decision-makers about what should be considered when submitting and determining planning applications. It specifically provides guidance on certain elements of design, landscaping, backland and infill, trees, equestrian development and flood risk sequential test.
- 8.11 The TDG states that acceptable day-lighting of interiors is usually achieved if a 25 degree angle is drawn from a point 2 metres above the floor if the façade is not obstructed. Applied to the fronts of 2 storey dwellings, this suggests that a minimum separation distance of 10 metres is required between the front of properties (BRE, 2007). The proposed properties achieve in excess of the 10m minimum requirements. The TDG goes on to state that habitable room windows that overlook neighbouring garden space should normally be at least 10 metres from the boundary which the latest proposal looks to achieve.
- 8.12 The TDG goes on to state that 2-3 storey properties should have back to back distances (between facing habitable rooms) of no less than 21m, and front to front distance of no less than 12m, dependent upon the street hierarchy.
- 8.13 The proposal has been amended to alter the layout of the scheme and this has shown that the proposed properties along the eastern boundary can achieve rear gardens of 10m and above in line with the Council's TDG guidance. This is considered to allow sufficient distance to avoid excessive levels of overlooking and would result in a scheme that would not give rise to excessive levels of overshadowing. The side elevation properties on Woodknot Mews face onto the development site and as a consequence the potential for direct overlooking of neighbouring windows is diminished.
- 8.14 The properties on Goosehill Court are located 26m away and face on to the side elevation of proposed dwellings this is considered far in excess of the required separation and would not give rise to the potential loss of privacy, over dominance or loss of light.
- 8.15 The existing properties on Fulwood Drive are located approximately 14.5m away from the nearest properties and separated by Fulwood Drive. This is in excess of the 12m specified within the Council's TDG and is therefore considered to be in conformity with the Council's adopted guidance.
- 8.16 Concerns have also been received in relation to the proposed boundary treatments. The most recent plan has provided information in relation to the boundary treatments and confirms that the existing treatments of fences and hedges to the north eastern boundary will be retained.

8.17 On balance having assessed the latest layout, it is considered that the proposal would not adversely affect neighbouring properties in terms of excessive levels of overlooking, over dominance, loss of privacy or overshadowing. This weighs positively in favour of the application carrying moderate weight.

### **8.18 Conclusion on Social Impacts.**

8.19 In conclusion of the social impacts of the development, it is not considered that residential amenity will be adversely affected by the proposal in accordance with policy 44 of the Local Plan. The proposal has been able to adequately demonstrate that residential development can be achieved on the site without adversely affecting the residential amenity of neighbouring properties through overlooking, over dominance or loss of privacy.

8.21 It is anticipated that the proposal would lead to some noise and disturbance being generated whilst construction is taking place, however this is considered to be short term when considered against the lifetime of the development. Notwithstanding this, planning conditions have sought to mitigate this harm as far as possible by the submission of a Construction Impact Management Plan (condition 13) and as such this is considered to carry limited weight against the proposal.

8.22 It is noted that neighbouring residents view would change should planning permission be granted and the development built. However it has long been held that a right to a view is not a material planning consideration and that planning control is not concerned with the creation or preservation of private rights (see *Wood-Robinson v Secretary of State for the Environment and Wandsworth London Borough Council* [1998]). As such no weight should be afforded to this matter.

### **8.23 ENVIRONMENTAL SUSTAINABILITY**

#### Impact upon the character and appearance of the surrounding area

8.24 Concerns have been raised by neighbours that the proposal would be out of character with its surroundings. Policies 41 and 44 of the Local Plan requires that all proposals in Doncaster must be of high quality design that respects the character of the area in regard to a number of principles of good design.

8.25 The proposal has shown a mixture of two storey terraced, semi-detached, detached as well as 2 ½ storey semi detached dwellings. These are modern in appearance with a mixture of brick and render comparable to the existing 9 dwellings that have been constructed on Fulwood Drive. The dwellings would be seen against the backdrop of properties on Woodknot Mews and Goosehill Court which are part of a large housing development in the late 1990's early 2000's and which also have the appearance of a modern housing estate.

8.26 Doncaster's Urban Design officer had requested amendments to the scheme which have been incorporated into the design of the latest layout. In conclusion has raised no objections to the scheme. Concerns were also raised in relation to landscaping although these issues have now been addressed in consultation with Doncaster's tree officer and through the imposition of a suitable condition.

8.27 On balance having considered the latest proposal's and having context to the surrounding area, it is not considered that the proposal would be out of character with its immediate surroundings.

## Highways

### Access

- 8.28 During the consideration of the application a considerable amount of time has been given to the assessment of the proposed layout to ensure that it meets with the required standards. The scheme has seen various iterations and alterations take place to result in the latest amended plan. The alterations include changes to:
- Concerns that initial scheme provided insufficient parking across the development site;
  - Concerns that the layout was not conducive with a refuge vehicle manoeuvring around the site;
  - Concerns that the carriageway width was not sufficient;
  - The width of the drive has been missed off for plots 26 – 29;
  - Widening of plots P11 and P15 to meet with the STRDG;
  - Alterations to the spaces for P19 and P20 to meet with the SYRDG;
  - Widening of plots 25 -30 and 32-36 to comply with the SYRDG.
- 8.29 These aspects were amended resulting in the most recent proposed site layout (revision K) and as a result Doncaster's Highways Development Control team have raised no objections subject to suitably worded conditions.
- 8.30 Policy 42 lists safe and secure private property, public areas and the adoptable highway ensuring access points, street design, parking and operational highway requirements safely cater for pedestrians, cyclists and vehicles as qualities of a successful place. Policy 13 of the Local Plan states that proposals will be supported which make an overall contribution to the improvement of travel choice and the transport network.
- 8.31 Highways Development Control Officers have assessed the proposal against the required standards and relevant software and it has been concluded that there would be no adverse impact from a highway safety perspective. Importantly, the NPPF makes clear at paragraph 111 that "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."
- 8.32 In this case, no such harm has been identified and this weighs positively in favour of the application carrying moderate weight.

### Location to services

- 8.33 National policy seeks to build prosperous and sustainable communities by improving the economic performance of towns and cities, promoting regeneration and tackling deprivation. It seeks to focus development in existing centres accessible to public transport, jobs, key services and infrastructure so as to promote their vitality and viability, support town centre regeneration and minimise the need to travel. Land should be used efficiently and priority given to re-using well located brownfield land.
- 8.34 The nearest bus stops to the site are located on Tickhill Road (approximately 30m to the south east of the entrance to the site ) and are served by the 22, 73, 456 and 473 buses. They operate on a on a hail and ride basis. These buses operate on a daily

basis operating throughout the week and travel to Doncaster's Town Centre located approximately 2.5 miles to the north.

- 8.35 It is widely acknowledged that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 8.36 Section 9 (Promoting Sustainable Transport) of the NPPF goes into further detail on this core principle. Paragraph 110 states that decisions should take account of whether:
- a) Appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
  - b) Safe and suitable access to the site can be achieved for all users; and
  - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code.
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.37 Chapter 5 (Delivering a sufficient supply of homes) of the NPPF sets out that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 8.38 With regard to school places, paragraph 95 states that the government attaches great importance to ensuring that sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
  - b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
- 8.39 Doncaster's Transportation team were consulted as part of the application, however as the proposal was less than the 50 dwelling threshold, additional assessment is not required. As a consequence Doncaster's transportation team have raised no objections to the proposal subject to a condition requiring details of the electrical vehicle charging provision on site.
- 8.40 The site lies within 520m (as the crow flies) to a major supermarket chain. In terms of average walking speeds, the Guidance states that as a general rule of thumb a 5 minute walk equates to a distance of 400 metres for non-disabled people and for different groups of disabled people, these distances are significantly less. This calculation concurs with the Institute for Highways and Transportation (IHT) 'Guidelines for Providing Journeys on Foot' published in 2000, which calculated a reasonable walking pace as 3 miles or 5 kilometres per hour.
- 8.41 The IHT document refers to 400 metres as a desirable walking distance and 800 metres as an acceptable distance for trips on foot outside town centres (save for

commuting/schools/sightseeing where the figures are instead 500m and 1000m respectively). The application site lies 700m from the nearest school (Carr Lodge Academy) and approximately 520m from the nearest supermarket located to the east of the development site.

- 8.42 When considered against the distance criteria set out in the South Yorkshire Residential Design Guide and also the guidelines set out by the Institute for Highways and Transportation the development measures well in terms of access to public transport and local services. Consequently the proposal adheres to Policy 13 of the Local Plan.
- 8.43 Taken in the round, the proposal is considered to be located within a sustainable location within a reasonable proximity to bus services, shops and medical facilities carrying significant weight in favour.

#### Flooding and Drainage

- 8.44 The application site lies within an area designated as Flood Risk Zone 1 by the Environment Agency's flooding maps. This is the lowest areas of flood risk. The applicant has confirmed in their Flood Risk Assessment (FRA) that the site was not affected by any flooding in the past & was not affected by the extreme floods that took place in 2007. The 2007 floods affected large areas located to the north of Doncaster including Bentley, Toll Bar & Scawthorpe where land levels are significantly below those encountered at this location.
- 8.45 Doncaster's Drainage team have been consulted as part of the proposal and although an initial objection was received on the basis of a lack of information, this has subsequently been resolved and suitably worded conditions have been suggested.

#### Trees and Landscaping

- 8.46 Initially, concerns were raised by Doncaster's Tree officer that plots 26 to 32 and plot 39 were too close the protected tree line that is along the southeast boundary with the footpath. Furthermore, Plots 33 and 34 require the removal of T22, T27, T28, T29 and T30 – T48. Trees T22, T23, T24, T26, T27, T31, T37 and T38 are all tree that are desirable to be retained for their landscape value and remaining years on the site. The loss of these trees was not considered justified.
- 8.47 An amended layout plan has been provided and the scheme looks to protect the central core of trees within the middle of the site. In addition the latest plans show the retention of trees on the southern boundary with the addition of two further trees and the inclusion of protective fencing during construction. Doncaster's Tree Officer has commented that the latest proposals are a marked improvement on the initial scheme and as a consequence has been able to remove his objection subject to suitably worded conditions.

#### Ecology and Wildlife

- 8.48 Doncaster's Ecologist has been consulted during the course of the application. Initially an objection was received on the lack of information in relation to Biodiversity Net Gain (BNG) and the lack of an environmental assessment. A Preliminary Ecological Assessment (PEA) and BNG assessment have been submitted and assessed by Doncaster's ecologist. On the basis of this information it is accepted



that the BNG required as part of offsetting of the development can be achieved on site. The proposal is therefore considered to be compliant with the requirements of Policy 30 of the Local Plan together with paragraph 174 of the NPPF.

### Pollution issues

- 8.49 The site has been investigated both pre and post demolition, it is noted there are 8no. Stockpiles on site. Chemical analysis indicates the soils on site are suitable for reuse, however due to contamination with brick/glass rubble a cover system may be required.
- 8.50 Some of the materials within the stockpiles will need to be treated as waste and removed from site. Relic foundations/services still require grubbing out, so there is a potential for further contamination to be found. The report recommends a Remedial Statement is prepared.
- 8.51 As a result of this, Doncaster Pollution Control Team have suggested a land contamination condition.

### Air Quality

- 8.52 Doncaster's Air Quality team have assessed the Air Quality Screening Assessment produced by Wardell Armstrong ref number 001 v0.1 dated May 2022 and agree with their findings. A condition has been suggested that requires details of the electrical vehicle charging units to be provided in line with the Council's Air Quality Technical Planning Guidance 2022.

### **8.53 Conclusion on Environmental Issues**

- 8.54 Para. 8 of the NPPF (2021) indicates, amongst other things, that the planning system needs to contribute to protecting and enhancing the natural built and historic environment, including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 8.55 In conclusion of the environmental issues, it is considered that there has been no significant issues raised which would weigh against the proposal that cannot be mitigated by condition and a S106 contribution. As such, moderate weight can be attached to this in favour of the development through the achievement of tree retention and integration, EV charging point integration and remediation of the site.
- 8.56 The proposal has demonstrated that the development is located within a suitable location and this weighs positively in favour of the application carrying significant weight. In addition, the proposal lies within the lowest possible area of flood risk and this weighs positively in favour of the application carrying moderate weight.
- 8.57 Impact on the character of the area - whilst it is acknowledged that the appearance of the land would invariably change in the event that planning permission is granted, the proposed development would be seen as an extension to the existing built environment and spatially would help to compliment the character of the surrounding area. The general appearance of the site will alter if planning permission is approved from what is currently undeveloped land to a new housing estate. However, the conditions set out below will help to ensure that the proposal is designed and integrated into the existing settlement when seen against its backdrop.

Consequently, the impact of the development on the appearance of the surrounding area is considered to weigh neutrally.

8.58 Additional noise issues associated with the development are considered to be short term negative impacts which can be mitigated through appropriate conditions. Given the relative short term nature of the potential construction noise and disturbance when viewed over the lifetime of the development, it is considered that this carries limited weight against the proposal.

### **8.59 ECONOMIC SUSTAINABILITY**

8.60 It is anticipated that there would be some short term economic benefit to the development of the site through employment of construction workers and tradesmen connected with the build of the project however this is restricted to a short period of time and therefore carries limited weight in favour of the application. Whilst there may be some additional uplift for business within Balby as a result of additional customers, this uplift is unknown and cannot be quantified at this time and so is afforded limited weight.

### **8.61 Conclusion on Economy Issues**

8.62 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.

8.63 Whilst the economic benefit of the proposal is slight and afforded only limited weight, it does not harm the wider economy of the borough and for that reason weighs in favour of the development.

### **8.64 Planning Obligations**

8.65 Paragraph 55 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

8.66 Paragraph 57 states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

8.67 These are the statutory tests as set out in the Community Infrastructure Levy Regulations 2010.

### Affordable Housing

8.68 To accord with policy 7 of the Local Plan, the scheme should provide 23% on site affordable housing, as more than 15 dwellings are proposed and in combination with

part of the adjacent site that has been developed, there is a policy requirement to provide affordable housing.

- 8.69 The developer is aware that the existing 9 dwellings and proposed 27 should be seen as one development site and as a result is proposing 8 affordable housing units delivered on site. The house types have been altered to ensure that they meet the Nationally Described Space Standards. Further amendments have been received which alter the layout of the affordable houses to ensure that they are pepper potted throughout the site. On the basis of this information, Doncaster's affordable housing officer has raised no objections.

#### Public Open Space

- 8.70 The proposal seeks to retain the area located centrally within the site which has a number of established trees. This area would not act as useable open space in the conventional sense. It is not big enough having retained the trees to utilise it for additional play space or equipment. On this basis there is a requirement to provide an offsite contribution the equivalent of 15% of the land value. This will be secured as part of the S106 contributions.

#### Education

- 8.71 Policy 65 of the Local Plan deals specifically with developer contributions. Where necessary, directly related to the development, and fair and reasonable in scale and kind, developer contributions will be sought to mitigate the impacts of development through:

*provision off site, to ensure the development can be delivered in line with other policy objectives, and to a safe and satisfactory standard (such as off-site affordable housing, education facilities, biodiversity net gain, flood mitigation, or highways improvements).*

The Council's Education team have been consulted and 5 additional secondary school places are required with a total educational contribution calculated at £91,485.00.

#### Biodiversity offsetting

- 8.72 Paragraph 174 of the NPPF states planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

- 8.73 Policy 30 of the Doncaster Local Plan also requires the submission of a BNG assessment to adequately assess the biodiversity on site and to determine how to deliver net gain on site. The applicant has submitted a Preliminary Ecological Appraisal (PEA) and BNG assessment and having discussed this with Doncaster's ecologist, it has been commented that net gain can be delivered on-site delivery through the landscape scheme proposed. As a consequence no objections have been received and there is no requirement for a S106 contribution to deliver off site mitigation.

## **9.0 PLANNING BALANCE & CONCLUSION**

- 9.1 In accordance with Paragraph 11 of the NPPF (2021) the proposal is considered in the context of the presumption in favour of sustainable development. The proposal is considered to be located within a sustainable location on a site earmarked for residential development in the Local Plan and this weighs considerably in favour of the application. In addition the amendments that have been undertaken have shown that a suitable layout can be achieved that would be reflective of the character of the area and safeguard neighbouring properties through appropriate separation distances and this weighs significantly in favour of the application.
- 9.2 All other material planning considerations have been fully explored by the appropriate consultees who have raised no objections to the proposal subject to conditions or S106 contributions and holistically this weighs moderately in favour of the application.
- 9.3 Limited weight in favour of the application has been afforded to the potential economic benefits generated by the proposal.
- 9.4 The noise and smells associated with equipment used during the construction of the site can be mitigated and controlled by condition and the short term noise and disturbance associated with implementing the planning permission is considered to carry limited weight against the proposal.
- 9.5 Having balanced all material planning considerations, whilst a number of objections have been received in respect to the proposal they have been suitably addressed by the information supplied and amendments to the scheme. As a consequence, the positive aspects of the proposal outlined above are not outweighed by any other material planning considerations.
- 9.6 The proposal is subject to a Section 106 Agreement and the proposed heads of terms are outlined below.

## **10.0 RECOMMENDATION**

### **10.1 MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE CONDITIONS BELOW AND FOLLOWING THE COMPLETION OF AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 IN RELATION TO THE FOLLOWING MATTERS AND THE HEAD OF PLANNING BE AUTHORISED TO ISSUE THE PLANNING PERMISSION UPON COMPLETION OF THE LEGAL AGREEMENT:**

- a) 23% Affordable Housing to be provided onsite
- b) Proposal to provide 15% off site Public Open Space (POS) including ongoing management and maintenance.
- c) An education contribution towards additional school places equating to £91,485.00

### **CONDITIONS/REASONS**

01. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.  
REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in complete accordance with the details shown on the amended plans referenced and dated as follows:

Amended Site Plan – Drawing number 18.010.2 REV M  
Proposed Plan – Drawing number HL97 -18.007.56. REV C  
Proposed Plan – Drawing Number HL67B2 - 18.007.69 REV D  
Proposed Plan – Drawing Number HL67T - 18.007.13.1  
Proposed Plan – Drawing Number HL115 – 18.007.49 REV A  
Proposed Plan – Drawing Number HL85A2 – 18.007.16  
Proposed Plan – Drawing Number HL96A2 – 18.007.55  
Proposed Plan – Drawing number HL96B2 – 18.007.28  
Proposed Plan – Drawing number HL97T – 18.007.31.1

REASON

To ensure that the development is carried out in accordance with the application as approved.

03. The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.

REASON

To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.

04. Prior to the commencement of the development hereby granted a scheme for the protection of all retained trees that complies with British Standard 5837: 2012 Trees in Relation to Design, Demolition and construction shall be submitted to the Local Planning Authority for approval. Tree protection shall be implemented on site in accordance with the approved scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

REASON

To ensure that retained trees are protected from damage during construction.

05. No development shall take place on the site until a detailed hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The hard landscape scheme shall include details of all external hard surfacing materials. The soft

landscape scheme shall include a soft landscape plan; a schedule providing plant and tree numbers and details of the species, which shall comply with section 8 Landscape, Trees and Hedgerows of the Council's Development Guidance and Requirements Supplementary Planning Document, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation; and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details and the Local Planning Authority notified in writing within 7 working days to approve practical completion of any planting within public areas or adoptable highway within the site. Soft landscaping for any individual housing plot must be implemented in full accordance with the approved scheme, prior to occupation of the home, which will be monitored by the Local Planning Authority. Any part of the scheme which fails to achieve independence in the landscape, or is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.

Reason:

In the interests of environmental quality and Local Plan Policy 48.

06. The alignment of all service trenches and overhead services shall be approved by the Local Planning authority prior to the commencement of development in relation to the retained trees.

REASON:

To prevent damage being caused to trees which it has been agreed shall be retained

07. Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

REASON

To ensure that no foul or surface water discharge take place until proper provision has been made for their disposal.

08. Prior to the first occupation of the development hereby approved, details of the drainage management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage system for foul and surface water drainage shall be retained, managed and maintained for the lifetime of the development in accordance with the approved drainage management and maintenance plan.

REASON:

To ensure the drainage apparatus of the site is adequately maintained for the lifetime of the development and to accord with Para. 169 c) of the NPPF (2021).

09. Prior to the commencement of the development hereby approved, details of electric vehicle charging provision, in compliance with Appendix 4 of the Council's Air Quality Technical Planning Guidance 2022, shall be submitted for the consideration and comment of the Local Planning Authority (LPA). No dwelling shall be occupied until such provision as approved by the LPA has been installed and is operational.  
REASON  
This condition is in accordance with the aims of Policy 54 of Doncaster's Local Plan
10. Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the Local Planning Authority.  
REASON  
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
11. The vehicle turning space as shown on the approved plans shall be constructed before the development is brought into use and shall thereafter be maintained as such.  
REASON  
To avoid the necessity of vehicles reversing on to or from the highway and creating a highway hazard.
12. Before the development hereby permitted is brought into use, the parking as shown on the approved plans shall be provided. The parking area shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.  
REASON  
To ensure that adequate parking provision is retained on site.
13. No construction works shall take place until full details of offsite highway works have been submitted to and agreed in writing by the Local Planning authority within a Construction Traffic Management Plan. The development shall be carried out in accordance with the agreed details and cover the following points, expanded on as required:
- o Volumes and types of construction vehicles
  - o identification of delivery routes;
  - o identification of agreed access point
  - o Contractors method for controlling construction traffic and adherence to routes
  - o Size, route and numbers of abnormal loads
  - o Swept path analysis (as required)
  - o Construction Period
  - o Temporary signage
  - o Wheel Wash facilities
  - o Timing of deliveries

## REASON

In the interests of highway safety and to safeguard the amenity of neighbouring properties.

14. No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.
- c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
- d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.
- e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

## REASON

To secure the satisfactory development of the site in terms of human health and the wider environment, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

15. Prior to the commencement of development a Management Plan for proposed onsite habitats shall be submitted to the Local Planning Authority for approval in writing. The Management Plan shall detail the following:
- An adaptive management plan for the site detailing the management measures to be carried out over the phased restoration of the site in order to achieve the target conditions proposed for each habitat parcel.



-Objectives relating to the timescales in which it is expected progress towards meeting target habitat conditions will be achieved.

-A commitment to adaptive management that allows a review of the management plan to be undertaken and changes implemented if agreed in writing by the LPA and if monitoring shows that progress towards target conditions is not progressing as set out in the agreed objectives.

-That monitoring reports shall be provided to the LPA on the 1st November of each year of monitoring (Years 1, 2, 3, 5, 10, 15, 20, 25 and 30)) immediately following habitat creation.

-Data will be provided in an agreed standard format to allow for collation into a district-wide biodiversity network database.

Once approved in writing the management measures and monitoring plans shall be carried out as agreed.

**REASON**

To ensure the habitat creation on site and subsequent management measures are sufficient to deliver a net gain in biodiversity as required by Local Plan policy 30B and the NPPF paragraph 174.

16. Upon commencement of development details of measures to facilitate the provision of gigabit-capable full fibre broadband for the dwellings/development hereby permitted, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**REASON**

To ensure that all new housing and commercial developments provide connectivity to the fastest technically available Broadband network in line with the NPPF (para. 114) and Policy 21 of the Doncaster Local Plan.

**INFORMATIVES**

01. **INFORMATIVE**  
The developer shall consider incorporating all possible sustainability features into the design of the proposed development.

02. **INFORMATIVE: Doncaster Borough Council Tree Preservation Order (No.112) 1993 St. Catherine's Hospital Site, Balby**

All the trees within the application site is subject to Doncaster Borough Council Tree Preservation Order (No.112) 1993 St. Catherine's Hospital Site, Balby. It is a criminal offence to prune without consent or wilfully damage any protected tree. Failure to implement the above Planning Condition which seeks to protect the tree may be deemed to constitute wilful damage and may result in criminal proceedings being instigated by the Council. The Council operates a free advisory service in assisting in tree protection.

03. INFORMATIVE: EV Charging

The developer should consider where the EV charging points will be located and indeed how their usage will be allocated.

Given the Government's stated intention with respect to fossil fuelled vehicles the developer may wish to consider increasing the number of points and/or install the civil works to facilitate future expansion

04. INFORMATIVE: Highways

Works carried out on the public highway by a developer or anyone else other than the Highway Authority shall be under the provisions of Section 278 of the Highways Act 1980. The agreement must be in place before any works are commenced. There is a fee involved for the preparation of the agreement and for on-site inspection. The applicant should make contact with Malc Lucas - Tel 01302 735110 as soon as possible to arrange the setting up of the agreement.

Due to the proximity of the scheme to the A60 Tickhill Road then it would need consultation with our Network Management Team details of which are below:

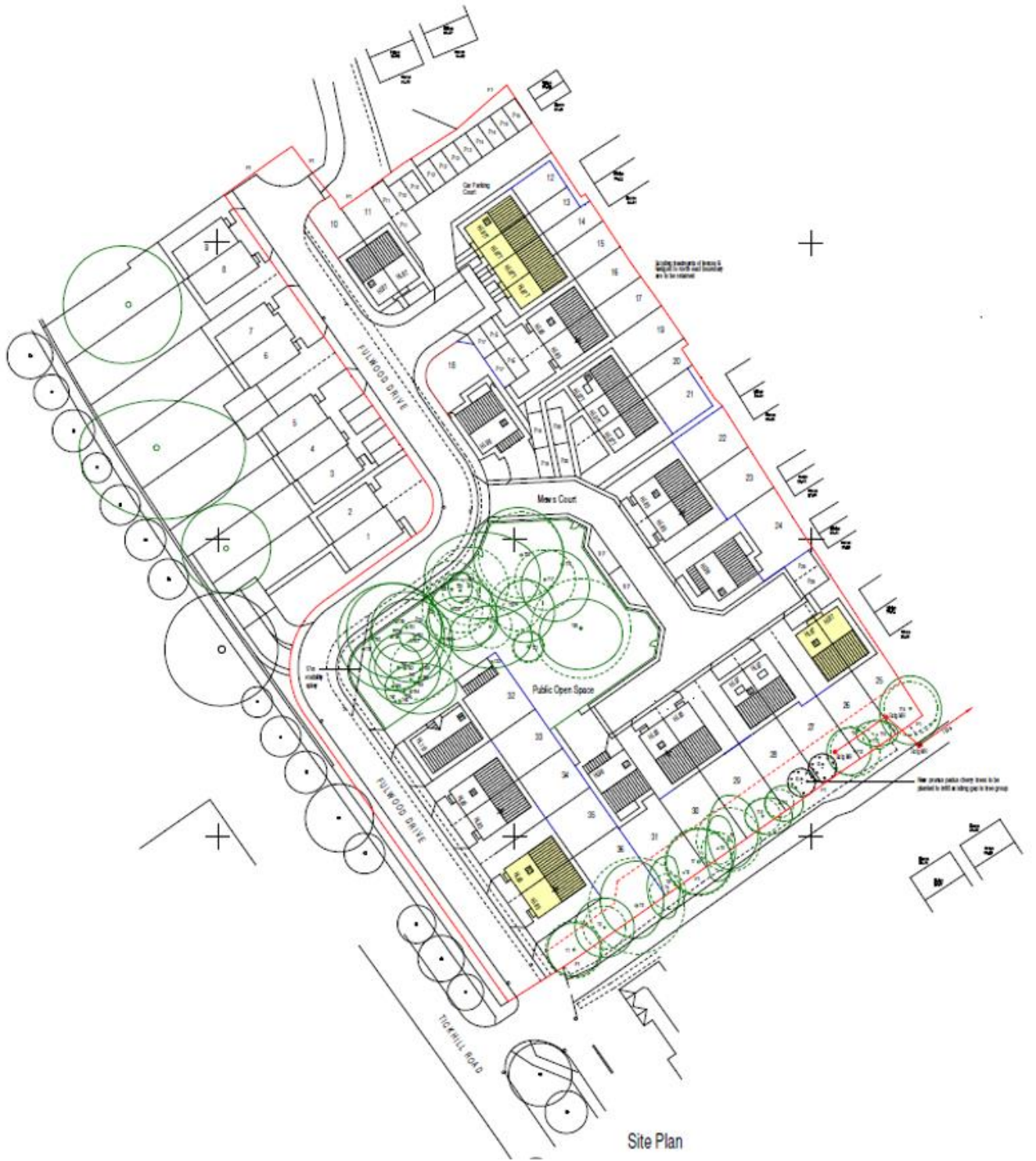
Doncaster Borough Council Permit Scheme (12th June 2012) - (Under section 34(2) of the Traffic Management Act 2004, the Secretary of State has approved the creation of the Doncaster Borough Council Permit Scheme for all works that take place or impact on streets specified as Traffic Sensitive or have a reinstatement category of 0, 1 or 2. Agreement under the Doncaster Borough Council Permit Scheme's provisions must be granted before works can take place. There is a fee involved for the coordination, noticing and agreement of the works. The applicant should make contact with Paul Evans - Email: p.evans@doncaster.gov.uk or Tel 01302 735162 as soon as possible to arrange the setting up of the permit agreement.

05. INFORMATIVE: Street Lighting

Any alteration to the existing street lighting as a result of the new access arrangements will be subject to a costs which are to be borne by the applicant. Street lighting design and installation is generally undertaken by the Local Highway Authority. There is a fee payable for this service and the applicant should make contact with Fiona Horgan - Tel 01302 735097 or e-mail Fiona.Horgan@doncaster.gov.uk regarding this as soon as possible. Further information on the selected DNO / IDNO together with the energy supplier will also be required as soon as possible as they directly affect the adoption process for the street lighting assets

**The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.**

**Appendix 1 – Site Plan Layout**



Site Plan



<b>Application</b>	<b>2.</b>
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<b>Application Number:</b>	21/02399/FUL
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<b>Application Type:</b>	Full Planning Application
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<b>Proposal Description:</b>	Formation of new site entrance (from Worcester Ave)		
<b>At:</b>	Crompton Lighting Limited Wheatley Hall Road Wheatley Doncaster		

<b>For:</b>	Mr Nigel Griffiths - Ground Group
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<b>Third Party Reps:</b>	5 Letters of objection	<b>Parish:</b>	n/a
		<b>Ward:</b>	Wheatley Hills and Intake

<b>Author of Report:</b>	Mark Ramsay
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## SUMMARY

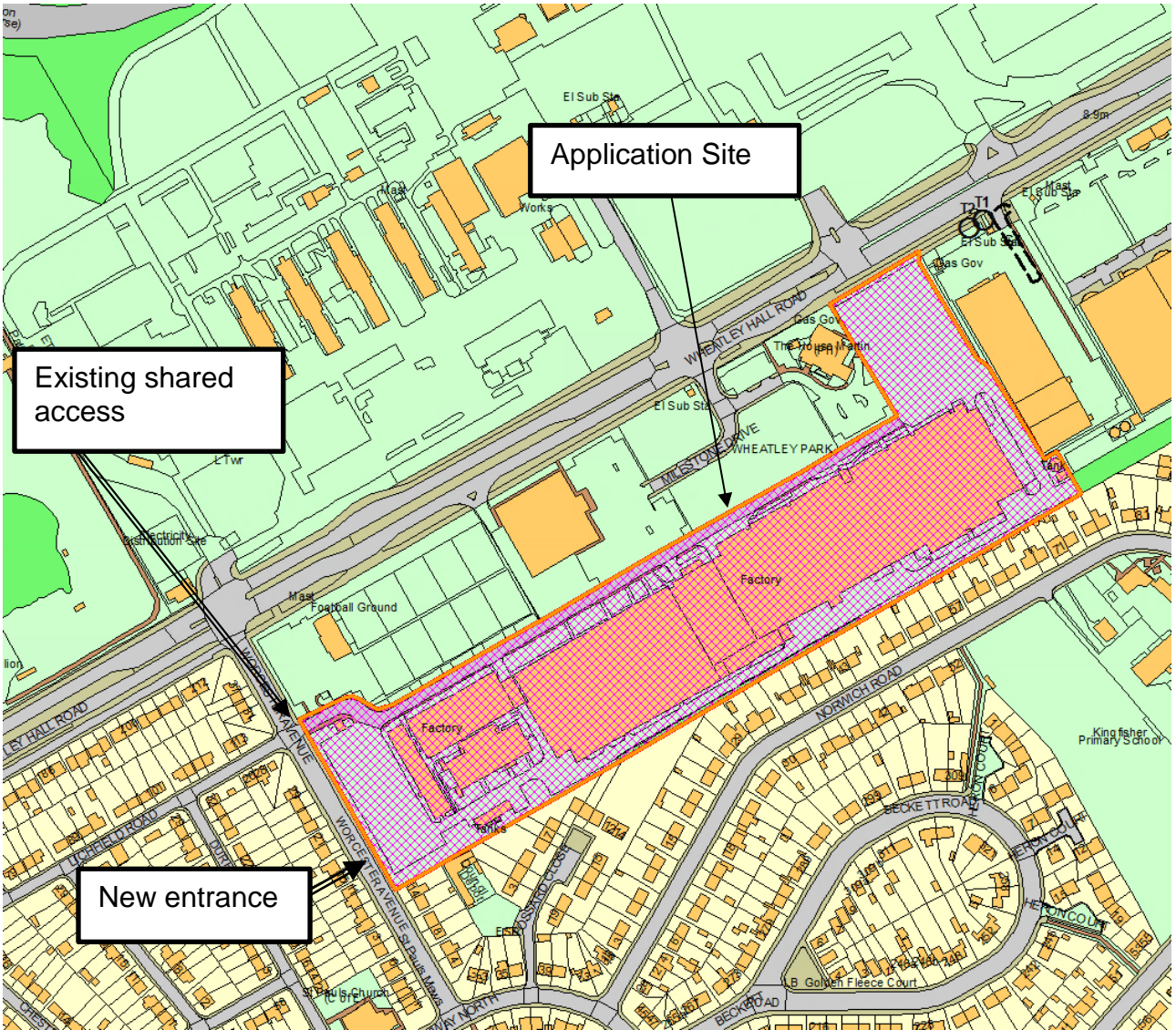
The proposal is for a new vehicle access to land to the west of the former Crompton Electrical factory building also known as Xenon Park. This would be to provide direct access to the existing car park and building instead of via the access to Worcester Avenue that is shared with 'Goal' football centre.

The access would be further south along Worcester Avenue than the current access and delivery vehicles would need to traverse part of the avenue that is subject to a weight restriction, however the traffic order that is in place only applies to through traffic.

The site is allocated as employment land in the Doncaster Local Plan 2015-2035.

The proposal continues to ensure access to a site allocated for employment uses, while moving the access will inevitably lead to commercial traffic movements passing some residential premises, the impact on amenity will be limited and therefore the proposal is recommended for approval.

**RECOMMENDATION: GRANT planning permission subject to conditions**



## 1.0 Reason for Report

1.1 The application is being presented to Members due to the number of representations made to the proposal.

## 2.0 Proposal and Background

2.1 Planning permission is sought for permission to create a new direct access to the car parks and buildings forming Xenon Park, former Crompton Electrical Site rather than the shared access with the Goal football centre. There are potential civil matters between the users of the shared access that may mean that it is no longer available to the occupants of the factory site, so the possibility of a dedicated access is necessary.

2.2 At the opposite end of the site a direct access to Wheatley Hall Road has been approved to service a speculative new development, which would be separated from the rest of the site. This further amplifies the requirement for a dedicated access.

## 3.0 Site Description

3.1 The site lies to the east of Worcester Avenue and is populated by former factory buildings which are now leased out as business units. The site is bounded by a mesh fence on the boundary with Worcester Avenue. There are detached two storey properties fronting Worcester Avenue opposite the site and other housing along the southern boundary which aren't directly affected by this proposal. The existing driveways around the factory site and its car park would remain otherwise unaltered.

## 4.0 Relevant Planning History

Application Reference	Proposal	Decision
21/02682/FUL	<b>Proposed new site entrance (from Wheatley Hall Road)</b>	Granted 14 February 2022

## 5.0 Site Allocation

5.1 The site is identified within the Local Plan as Employment Policy Area.

### 5.2 National Planning Policy Framework (NPPF 2021)

5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions and the relevant sections are outlined below:

5.4 Paragraph 2 states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 5.5 Paragraphs 7 – 11 establish that all decisions should be based on the principles of a presumption of sustainable development.
- 5.6 Paragraphs 55-56 states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.6 Paragraph 83 recognises that decisions should the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations contributing to a strong competitive economy.
- 5.7 Paragraph 111 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.

### **Local Plan**

- 5.8 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster consists of the Doncaster Local Plan (adopted 23 September 2021). The following Local Plan policies are relevant in this case:
- 5.9 Policy 4, Employment Policy Area, broadly supports commercial, storage and industrial uses and other uses that support these uses or are sufficiently specialist.
- 5.10 Policy 12 Strategic Transport Network states that developments which generate large volumes of freight traffic or involve the transport of bulk materials should be located close to the strategic transport network, where this can be accommodated within the existing capacity of the network

### **Other material planning considerations and guidance**

- National Planning Policy Guidance

## **6.0 Representations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015 by means of site notice, council website, press advertisement and neighbour notification.
- 6.2 Following this publicity, a total of 5 letters of objection were received. A summary of the material planning issues raised is set out below:



- Loss of amenity through noise, disturbance and delivery traffic passing and turning close to dwellings, changes in character and appearance from adjacent dwellings

## **8.0 Relevant Consultations**

### **8.1 Yorkshire Water**

No objections

### **8.2 Highways**

The applicant has shown that vehicles will be able to safely turn in and out of the site without compromising parked vehicles. While noting that the access is inside the weight restriction on Worcester Avenue, it is 'except for access' so that vehicles accessing the site would not actually be breaching the order although it would be preferred if the weight restriction was moved, should the application be approved. This would entail a separate process requiring a traffic order which has its own consultation process under the relevant legislation and is separate from planning law. Tracking was carried on the proposed layout and found that vehicles were able to turn into the site without affecting parked cars, so there isn't a requirement for double yellow lines to be applied to part of the street.

### **8.3 Environmental Health**

Concern was raised with regards to the impact on the properties opposite the site. The applicant provided information showing that the number of vehicle movements in and out of the site were small in terms of commercial vehicles and only within normal working hours and the movements were not at anti-social times of the day. The officer commented that movements are relatively small and would only have a limited noise impact on residents and properties immediately opposite may result in limited light intrusion from headlights shining across the road caused by vehicles leaving the site.

## **9.0 Assessment**

9.1 The proposal seeks permission for a new access from Worcester Avenue. In considering the proposal the main material planning considerations are outlined below:

- The impact on the character of the area
- The impact on neighbouring residential properties
- The impact on the highway network and highways standards

9.2 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little

- No

#### Appropriateness of the proposal

- 9.3 The Local Plan supporting Policies Map show this site is allocated as part of an Employment Policy Area and the proposal will ensure the site can continue to be accessed should the operator no longer be in a position to use the access shared with the Football centre. The associated buildings are in use for various commercial purposes, which is deemed in line with the Local Plan policies.

#### Sustainability

- 9.4 The National Planning Policy Framework (NPPF 2021) sets out at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs
- 9.5 There are three strands to sustainability, social, environmental and economic. Para.10 of the NPPF states that in order sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.

### **SOCIAL SUSTAINABILITY**

#### Impact on Residential Amenity

- 9.6 The impact on residential amenity is significant as there is currently restrictions reducing the amount of heavy goods vehicles traversing Worcester Avenue. The impact on amenity will come from additional vehicles passing the frontages of properties on Worcester Avenue to access the site, which otherwise would have turned off the road before reaching those dwellings or turned away, driving towards Wheatley Hall Road. Currently there is no proposal to alter the premises within the wider site and the new access would not generate extra traffic because of its creation.
- 9.7 The additional movements would be largely within regular working hours and the numbers are relatively small when based on the existing comings and goings. The applicant carried out a survey of vehicles accessing and leaving the site over a two week period and the daily number of trips ranged from 20 up to a maximum of 39. Around a third of those each day being trips by car with the remainder being vans or HGV's.
- 9.8 This would only become relevant if and when changes within the wider site mean that they would no longer be able to share the existing access with 'Goal'. Changes of use within the site that require planning permission would also trigger the requirement for those impacts to be further assessed at the time a planning application is submitted.
- 9.9 In order to limit any impact to the immediate surroundings, it would be prudent to make provision that prior to the site coming into use, a traffic management agreement is put in place so that commercial traffic arriving and leaving the site departs towards Wheatley Hall Road and could also be applied to avoid arrivals at anti-social times of day.

## **9.10 Conclusion on Social Impacts.**

- 9.11 While there are significant and recognisable impacts on the amenities of nearby occupiers, particularly between the shared access with Goal and the proposed access, the number of additional movements that would affect adjacent occupiers is relatively low and the likelihood is that they would not be at anti-social times. Given this could be further limited by agreeing a traffic management plan, the amount of weight afforded to these impacts against the development is limited.

## **9.12 ENVIRONMENTAL SUSTAINABILITY**

### Impact upon the character and appearance of the surrounding area

- 9.13 The impact would be limited as it would only require a new vehicle turning introduced part way along the edge of the existing car park. A condition requiring prior approval of the fencing, gates and replacement landscaping has been suggested in the recommendation below. This would ensure that replacement planting and boundary treatments are appropriate to the part commercial part residential setting along the edge of the site.

### Highways/Access

- 9.14 The Highways officer has not objected to the proposal and by adopting a traffic management plan that seeks to direct commercial traffic to Wheatley Hall Road it complies with the Local Plan policy that seeks to keep traffic travelling to and from sites in employment areas close to the strategic transport network. Wheatley Hall Road is a key part of the main routes around the borough linking to the arterial routes in and out of the centre.

## **9.15 Conclusion on Environmental Issues**

- 9.16 Para. 8 of the NPPF (2021) indicates that the planning system needs to contribute to protecting and enhancing the natural built and historic environment, including making effective use of land. Creating a new access to the site ensures the continuing viability of a site allocated as an employment use as well as maintaining links to the strategic transport network. The change in appearance is limited to the new opening into the existing car park seen in the setting of the existing former factory buildings within the site
- 9.17 In conclusion of the environmental issues, the impacts are limited and it is considered that issues raised in relation to trees, highways and changes to the boundary treatment can be dealt with subject to suitably worded conditions.

## **9.18 ECONOMIC SUSTAINABILITY**

- 9.19 It is anticipated that there would be some short term economic benefit to the development of the site through employment of construction workers and tradesmen connected with the build of the project however this is restricted to a short period of time and therefore carries limited weight in favour of the application. In terms of the local economy, keeping the site connected to the local

highway network and enabling businesses within the wider site to continue trading without interruption is important and given modest weight.

## **9.20 Conclusion on Economy Issues**

- 9.21 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- 9.22 Whilst the economic benefit of the proposal is slight in isolation, the wider benefit of ensuring this allocation is sustainable is afforded modest weight, as it will maintain the economic vitality of this existing employment site and the borough in general. For that reason this weighs in favour of the development.

## **10.0 PLANNING BALANCE & CONCLUSION**

- 10.1 In accordance with Paragraph 11 of the NPPF (2021) the proposal is considered in the context of the presumption in favour of sustainable development. The proposal is considered to be located within a sustainable location on an existing employment site in the Local Plan and this weighs considerably in favour of the application.
- 10.2 The noise and disturbance associated with the extra vehicle movements is potentially significant in terms of the occupants of nearby dwellings. However the impact is limited and can be restricted by the imposition of a traffic management plan requiring limits on the hours vehicles should be entering and leaving the site. The short term noise and disturbance associated with implementing the planning permission is considered to carry limited weight against the proposal.

## **11.0 RECOMMENDATION**

- 11.1 MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE FOLLOWING CONDITIONS:**

Conditions / Reasons:

01. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

2021-047-02C Proposed New Access

2021-047-03A Site Location Plan

REASON

To ensure that the development is carried out in accordance with the application as approved.

03. Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

REASON

To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.

04. Prior to the access being brought into use, a Traffic Management Plan (TMP) shall be submitted to and agreed in writing by the Local Planning Authority. The TMP shall detail:

- movements of commercial vehicles moving to and from the site and directing them towards Wheatley Hall Road;
- the times that access to the site will be permitted.
- the details required of a commercial vehicle record

The operation of the site shall be carried out in accordance with the approved TMP plan unless otherwise agreed in writing with the Local Planning Authority. The approved TMP shall be implemented upon the access hereby approved coming into use and shall be adhered to for the lifetime of the development.

REASON

In the interests of amenities of nearby occupiers.

05. A Commercial Vehicle Record shall be maintained which details; operator details, vehicle registration number, dates, times and numbers of all commercial vehicle movements associated with the site which enter and exit the site.

These records shall be maintained for the lifetime of the development and shall be made available for inspection by the Local Planning Authority within two working days of a verbal or written request being received.

REASON

In the interests of amenities of nearby occupiers.

06. No development of the access shall take place until a plan has been submitted to and approved in writing by the Local Planning Authority, the plan will show the

positions, design, materials, height, and type of boundary treatment to be erected on site, including any proposed lighting, walls, fences or gates. Unless otherwise approved in writing by the Local Planning Authority, the details as approved shall be completed before the new access is brought into use.

**REASON**

To ensure the satisfactory appearance of the development.

06. Any existing trees that are proposed to be removed as a result of the development shall be removed by the use of a tree shovel, replanted or replaced and thereafter maintained for a minimum period of five years in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to the commencement of the development.

**REASON**

To ensure that all retained trees are in a healthy condition on the completion of the development and for the specified period afterwards.

**INFORMATIVES**

**01. INFORMATIVE (CONDITION 06)**

If additional lighting is required for the purpose of illuminating the newly created vehicle access, details can be submitted alongside details of boundary treatments as part of an application to discharge condition 06. This will show the position, height and type of any illumination proposed.

**02. INFORMATIVE**

The developer shall ensure that no vehicle leaving the development hereby permitted enter the public highway unless its wheels and chassis are clean. It should be noted that to deposit mud on the highway is an offence under provisions of The Highways Act 1980.

**03 INFORMATIVE**

Cadent Gas own and operate the gas infrastructure within the area of your development. Contact the Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com). Alternatively you can register on [www.beforeyoudig.cadentgas.com](http://www.beforeyoudig.cadentgas.com) This service is free of charge.

**04. INFORMATIVE**

Works carried out on the public highway by a developer or anyone else other than the Highway Authority shall be under the provisions of Section 278 of the Highways Act 1980 and adoption roads within the development shall be carried out under Section 38 of the Highways Act. The S38 and S278 agreements must be in place before any works are commenced. There is a fee involved for the preparation of the agreement and for on-site inspection. The applicant should make contact with Malc Lucas - Tel 01302 735110 as soon as possible to arrange the setting up of the agreement.

**STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015**

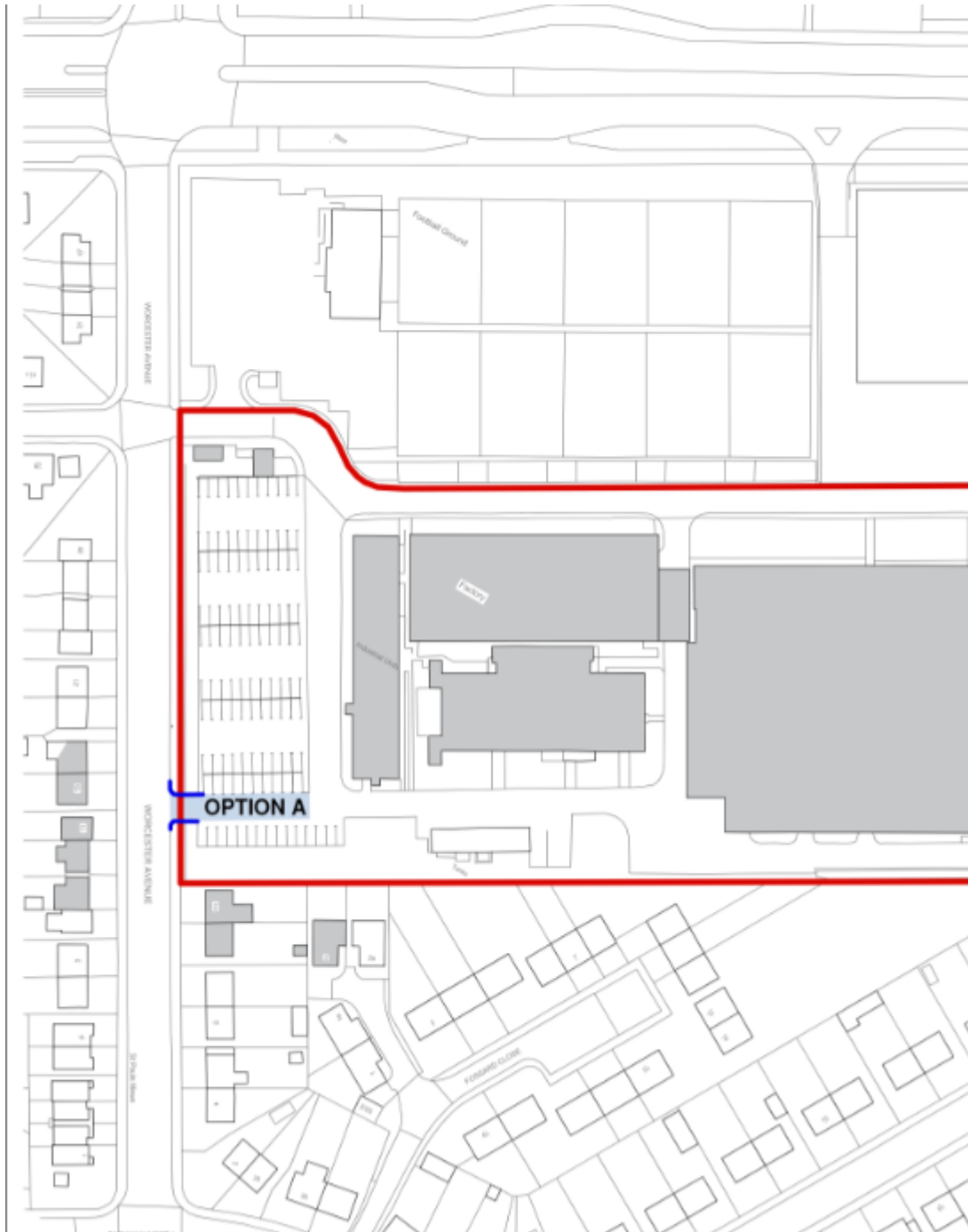
In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application:

- Additional information in relation to movements to and from the site

- Amendments to the plans to details

**The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence**

# Appendix 1: Site and Location Plan





Appendix 2 Detailed entrance



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**To the Chair and Members of the Planning Committee**

**APPEAL DECISIONS**

**EXECUTIVE SUMMARY**

1. The purpose of this report is to inform members of appeal decisions received from the planning inspectorate. Copies of the relevant decision letters are attached for information.

**RECOMMENDATIONS**

2. That the report together with the appeal decisions be noted.

**WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

3. It demonstrates the ability applicants have to appeal against decisions of the Local Planning Authority and how those appeals have been assessed by the planning inspectorate.

**BACKGROUND**

4. Each decision has arisen from appeals made to the Planning Inspectorate.

**OPTIONS CONSIDERED**

5. It is helpful for the Planning Committee to be made aware of decisions made on appeals lodged against its decisions.

**REASONS FOR RECOMMENDED OPTION**

6. To make the public aware of these decisions.

**IMPACT ON THE COUNCIL'S KEY OUTCOMES**

- 7.

	<b>Outcomes</b>	<b>Implications</b>
	Working with our partners we will provide strong leadership and governance.	Demonstrating good governance.

**RISKS AND ASSUMPTIONS**

8. N/A

#### **LEGAL IMPLICATIONS [Officer Initials SC Date 15/06/2022]**

9. Sections 288 and 289 of the Town and Country Planning Act 1990, provides that a decision of the Secretary of State or his Inspector may be challenged in the High Court. Broadly, a decision can only be challenged on one or more of the following grounds:
- a) a material breach of the Inquiries Procedure Rules;
  - b) a breach of principles of natural justice;
  - c) the Secretary of State or his Inspector in coming to his decision took into account matters which were irrelevant to that decision;
  - d) the Secretary of State or his Inspector in coming to his decision failed to take into account matters relevant to that decision;
  - e) the Secretary of State or his Inspector acted perversely in that no reasonable person in their position properly directing themselves on the relevant material, could have reached the conclusion he did;  
a material error of law.

#### **FINANCIAL IMPLICATIONS [Officer Initials BC Date 15/06/2022]**

10. There are no direct financial implications as a result of the recommendation of this report, however Financial Management should be consulted should financial implications arise as a result of an individual appeal.

#### **HUMAN RESOURCES IMPLICATIONS [Officer Initials CR Date 15/06/2022]**

11. There are no Human Resource implications arising from the report.

#### **TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 15/06/2022]**

12. There are no technology implications arising from the report

#### **HEALTH IMPLICATIONS [Officer Initials RS Date 15/06/2022]**

13. It is considered that there are no direct health implications although health should be considered on all decisions.

#### **EQUALITY IMPLICATIONS [Officer Initials JB Date 15/06/2022]**

14. There are no Equalities implications arising from the report.

#### **CONSULTATION**

15. N/A

#### **BACKGROUND PAPERS**

16. N/A

## CONCLUSIONS

17. Decisions on the under-mentioned applications have been notified as follows:-

Application No.	Application Description & Location	Appeal Decision	Ward	Decision Type	Committee Overturn
20/01323/FUL	Retrospective change of use of land to Sui Generis for the recycling of concrete, bricks, rubble and soils into a sellable by-product to provide recycled aggregates; construction materials storage; civils engineering operation use and proposed erection of modular building. at Unit 1, Pastures Road, Mexborough, S64 0JJ	13/06/2022	Mexborough	Committee	Yes
21/01596/FUL	Erection of two storey rear/side extension and associated works to include patio path and driveway re-paving, reinstatement of boundary fence/railings. at 2 Rectory Gardens, Wheatley, Doncaster, DN1 2JU	Appeal Dismissed 20/05/2022	Town	Delegated	No
20/02300/FUL	Erection of two storey dwelling and demolition of existing dwelling within 3 months of erection of new dwelling at Fairwinds, Hatfield Road, Thorne, Doncaster	Appeal Dismissed 27/05/2022	Hatfield	Delegated	No
20/01486/FUL	Erection of 7 dwellings following demolition of existing dwelling with associated access, parking and landscaping. at 59 Church Street, Bawtry, Doncaster, DN10 6HR	Appeal Dismissed 07/06/2022	Rossington And Bawtry	Delegated	No

## REPORT AUTHOR & CONTRIBUTORS

Mrs J Bailey  
01302 734603

TSI Officer  
jane.bailey@doncaster.gov.uk  
**Dan Swaine**  
**Director of Economy and Environment**

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## Appeal Decision

Hearing held on 19 April and 24 May 2022

Site visits made on 5 and 19 April 2022

**by A Edgington BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 June 2022**

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### **Appeal Ref: APP/F4410/W/21/3273717**

### **Unit 1, Pastures Road, Mexborough S64 0JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Adrian Catlow against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 20/01323/FUL, dated 11 March 2020, was refused by notice dated 11 December 2020.
  - The development proposed is Retrospective change of use of land to Sui Generis for the recycling of concrete, bricks, rubble and soils into a sellable by-product to provide recycled aggregates; construction materials storage; civils engineering operation use and proposed erection of modular building.
- 

### **Decision**

1. The appeal is dismissed.

### **Applications for costs**

2. The appellant submitted a written costs application at the hearing. It was agreed that the Council should have seven days to respond. This is the subject of a separate decision.

### **Preliminary Matters**

3. The appeal is for a retrospective change of use of land for a recycling business operating in conjunction with a groundworks and engineering business which has a Certificate of Lawful Existing Use or Development Certificate (CLEUD)<sup>1</sup> and which operates on one part of the appeal site. This allows the operation of *a civil engineering business, comprising the storage of materials and aggregate associated with the business; storage of associated vehicles and machinery; deliveries of waste materials acquired through the business operations; and as a base for business staff only*. The appeal before me is concerned only with the regularisation of the current screening, crushing and processing of material and the use of the area of the appeal site outside the area shown on the CLEUD.
4. The description of development in the banner is taken from the appeal questionnaire.
5. The officer's report sets out policy tests relating to the Core Strategy 2011-2028 (CS), the Saved Unitary Development Plan 1998, and the emerging Local

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<sup>1</sup> 21/00164/CPE

Plan (LP). Since the appeal was lodged the LP has been adopted and I confirmed at the hearing that the recently adopted LP policies are to be given full weight in my reasoning. It is also apparent from the Council's statement that LP Policy 4 has replaced CS Policy CS5 which was not cited in the decision, and that LP Policy 46 has replaced CS Policies CS1 and CS14, which were.

6. There is inconsistency in the description of vehicle movements to and from the site, and in the use of the term *two-way journeys*, throughout the evidence. At my first site visit the transport consultant explained that a two-way journey counted each leg separately. As such, 30 trips in and 30 trips out would amount to 60 two-way journeys. For consistency I have used the consultant's definition in my reasoning.
7. The appellant advanced the argument at the hearing that the noise arising from additional vehicle movements is not included in the reasons for refusal. However, although the reference to *dust, noise and traffic movements* may be ambiguous, I am satisfied that this phrase does not explicitly exclude noise from additional traffic. In any case, it was raised by interested parties and I see no reason to exclude this concern from my reasoning.

### **Main Issues**

8. The main issues are the effect of the development on:
  - The living conditions of occupiers of the nearby housing development, with particular regard to noise and disturbance, and airborne particulates.

### **Reasons**

#### *Policy background*

9. The site is located within a long strip of designated employment land situated between a canal and a large residential estate. LP Policy 4 is concerned with employment strategy and states that uses other than Classes B2, B8 and E(g) will be supported, provided the development meets one of the listed criteria A, B or C. One of these, criterion A, is that the development supports existing or permitted employment uses on the site. As part of the site is being lawfully used as a related engineering operation, I conclude that the proposals would meet criterion A.
10. The policy goes on to state that in those circumstances the development should also meet a further three criteria. These are that the site has easy access to other employment land uses (D), that the proposed use is appropriate in scale, design and location and will not adversely affect the operation of adjacent employment land or uses through environmental, amenity or traffic problems (E) and that there is compelling evidence that the land or buildings are no longer viable for use Classes B2, B8 and E(g), (F).
11. The site is located within a few miles of the M1 and M18. Although I found that routes to the site from the motorways involved travelling through built-up areas or on minor rural roads, there are other large industrial estates nearby which presumably have the same access restrictions. As such I see no reason to suppose that the site does not have access to other employment uses, or ready access to its Yorkshire customer base.



12. Although the development is classed as *sui generis*, there is nothing before me to indicate that it would not be suitable in principle on land allocated for Classes B2, B8 and E(G) use.
13. I appreciate that there is no evidence that the site would no longer be viable for Classes B2, B8 or E(g). However, nor is there evidence before me that the proposed development would displace those other uses. Moreover, the site would remain in employment use which appears to be the overarching aim of the policy. In any case, at determination, the officer's report concludes that the change of use would be capable of forming a sustainable proposal when assessed against emerging plan policies. It is unclear to me why the Council's position has now changed in this regard. Although the use falls within *sui generis* it is not dissimilar to commercial or industrial uses which would be allowed on the site.
14. In addition, the entire site sits within Flood Zones 2 and 3 which could limit options for other employment uses. The lawful engineering works for part of the site might also limit the attractiveness of the wider site for other employment uses. As such, I find no particular conflict with criteria D or F of LP Policy 4.
15. However, the evidence before me indicates that environmental, amenity and traffic problems are concerns, and that there is a conflict with criterion E. This is discussed below.

#### *Living conditions*

##### Noise

16. There is a large body of complaint concerning noise and disturbance arising from the site. The evidence indicates that recycling operations began in early 2020. Consequently, surveys and assessments carried out after January 2020 will be likely to include a combination of works permitted under the CLEUD, as well as, to some extent, the operations that are now before me.
17. BS 8233:2014 states that *sites which generate noise should take account of noise and an assessment should be made of the possible effects of the effect of .....the proposed development on the existing ambient noise outside the site.* This document also states that *people vary widely in their sensitivity to noise,* and relation to construction and open sites that the main factors that affect the acceptability of *noise arising from those sites include ambient noise levels, the duration of site operations, hours of work, noise characteristics and additional mitigation.*
18. The noise survey<sup>2</sup> submitted identifies one noise sensitive location, which appears to be the rear garden of a dwelling on Falcon Close, on the opposite side of Pastures Road from the site. This location is considered to be representative of all likely noise sensitive locations affected by the proposed operations.
19. The survey measured noise at the site entrance for one hour on a weekday afternoon with the crusher operating, and for a further hour without the crusher operating. I see no reason to disagree with the survey that the sound of the crusher experienced at the site entrance is not significantly higher than

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<sup>2</sup> Wardell Armstrong September 2020

- traffic noise in terms of volume, for receptors at that location and for those hours on a weekday afternoon. These findings concur with my observations at my visits, also on a weekday. When standing on the corner of Dove Road, opposite the site entrance, although the crusher had a broadly consistent and low grinding noise which appeared to be at a different frequency from the traffic, it was no louder than passing traffic. I could not hear the screening machine when standing at the site entrance.
20. However, the survey states that the crusher noise was not considered to be distinctive and therefore no penalties were added to the survey results. This does not accord with my observations that the low grinding noise was distinctive and identifiable. This could be highly annoying for particular receptors, particularly when there are lulls in passing traffic, and when it continues for long periods.
21. Moreover, the proposals before me are not wholly related to the operation of the crusher. Although the CLEUD permits machinery and vehicle movements which will generate noise, the evidence indicates that the level of vehicle movements and quantum of material being moved for those lawful operations<sup>3</sup> are considerably less than what is now occurring and what is before me. Moreover, the CLEUD relates to operations on a far smaller site. There is nothing before me to indicate that there has been any noise measurement of the wider working site over a typical working day, that is of a typical cycle of screening, including movement of the diggers, vehicle alarms, and associated HGV movements, in addition to the crushing, as might be experienced by nearby residents. Nor is there anything before me to indicate what the ambient background noise levels are at Falcon Close outside the very limited hours of the survey.
22. It is also unclear what the level of vehicle movements in and out of the site was during the survey. The current level of HGV movements is around 60 two way journeys per day<sup>4</sup>. This is significantly above what appears to be the trip generation associated with the lawful transfer of construction materials, estimated at around 100 trucks per month. In terms of the overall HGV traffic along Pastures Road, the survey indicates that 60 two way journeys to the site would not make a significant difference. However, vehicles entering and exiting the site will be slowing down, changing gears, stopping, and turning in and out of the site. This is very likely to generate noise characteristics, as well as vibration, that are different from passing traffic. Although it appears that vehicle movements into the site were measured as part of the survey, those journeys are not identified on the base data<sup>5</sup> so I am unable to conclude whether what was measured was representative of the proposals.
23. Moreover, the development also seeks a considerable uplift in HGV movements to 120 two way movements which reinforces my concerns around potential noise and vibration issues.
24. As such, whilst I recognise that in terms of BS4142 the noise survey has rated and assessed sound emanating from the crusher for a period of one hour, it has limited value in enabling me to assess the overall noise likely to be

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<sup>3</sup> Delegated report, 21/00164/CPE, Section Crushing, Screening, Processing Waste Materials

<sup>4</sup> Transport Report April 2021

<sup>5</sup> Graph 3 of 4 ML1 without crusher

- experienced by residents, and associated with the full operational use of the appeal site.
25. The argument is advanced that some dwellings close to Pastures Road have acoustic windows, but I give this limited weight as there will be periods when residents wish to be in their gardens or have their windows open. I do not accept that it is necessarily reasonable to expect residents to mitigate their experience of noise generated by the site, by closing their windows<sup>6</sup>.
26. Moreover, although I did not find the crusher noise particularly intrusive when I visited the site, this was for a very limited period. I can appreciate that over far longer periods residents may find it present and intrusive, which amounts to an Observed Adverse Effect according to the hierarchy set out in Planning Practice Guidance<sup>7</sup>. This is likely to alter behaviour, attitudes or have other physiological responses. That sounds levels are currently present and intrusive, and having an effect on attitude and behaviour is reflected in the extent of public interest and complaint.
27. Moreover, the appellant is seeking to allow the crusher to operate for over ten hours on a weekday and for five hours on a Saturday. These periods are likely to extend beyond the peak traffic hours when the crusher and other operations would be likely to be more audible, and would also be accompanied by the noise and disturbance arising from increased vehicle movements, as set out above. Notwithstanding that this is employment land, these proposed hours seem quite extensive and likely to intrude into periods when residents might expect rest and relaxation. One bit of evidence states that weekend operations would be for emergency operations only, but this is at odds with the suggested condition regarding use of the crusher on Saturdays.
28. I acknowledge that the representations from interested parties are not presented in an empirical format that can be readily compared with the noise survey. Nonetheless, I conclude that there is a genuine annoyance arising from noise emanating from the site and there is very little evidence to enable me to conclude that these concerns are unfounded. The noise arising from the development is very likely to be at least at the lowest observed adverse effect level (LOAEL), for some nearby residents.
29. Furthermore, even if I accept that the noise level is no higher than the LOAEL, Planning Practice Guidance (PPG) states that the action should be to mitigate and reduce to a minimum<sup>8</sup>. As the survey was undertaken when the blockwork wall was in place, I conclude that some mitigation is in place. No other measures have been proposed to reduce noise levels. Although operating hours could be varied, the appellant did not appear to be open to this suggestion at the hearing.
30. I appreciate that background sound levels at 51 dB  $L_{A90\ 1\ \text{hour}}$  during the survey measurement period are around what would be acceptable for external amenity areas as set out in BS 8233. However as noted above, there is nothing before me to indicate what background sound levels are at other times. Although brick boundary walls along Pastures Road might provide some mitigation for

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<sup>6</sup> Wardell Armstrong correspondence 3 May 2022

<sup>7</sup> ID: 30-005-20190722

<sup>8</sup> Noise Exposure Hierarchy

the gardens behind, these are two storey houses and open windows at first floor level would not be protected by the walls.

31. As such, the noise survey provides a very selective snapshot of noise associated with the change of use. The information does not enable me to conclude conclusively that noise arising from the recycling operation is not currently having, and would not continue to have, a detrimental effect on the living conditions of nearby residents. Moreover, the intensity of operations is likely to increase. Whilst I acknowledge that some noise is generated by the site's lawful operations, I am unable to assess what that level of noise is.
32. The appellant argued that emissions could be controlled by enforcement. However, with regard to noise emissions, there is no noise emission plan or agreed thresholds for noise emanating from the site. And as set out in BS 8233, people vary in their responses to noise. The level of noise considered to be a nuisance under the permit may well be different from that considered to affect living conditions for nearby residents.
33. Moreover, in respect of noise emissions, it appears mitigation is already in place and there is no evidence before me to suggest that additional measures are available. In any case, enforcement powers under the permit do not remove the need for consideration of the operations under the local development plan.

#### Dust

34. A large proportion of the site is surfaced in unbound materials, and the storage, movement, loading, unloading, screening and crushing of loose building materials will provide a ready source of airborne particulates. It is not disputed that the site and its operations generate dust.
35. There is open countryside to the immediate east, including arable fields, and other areas with unbound surfacing in the vicinity which would also be a source of dust. There is also nearby building work. Moreover, exceptional weather conditions can deposit dust which was picked up in very distant locations. However, it was stated at the hearing that this residential estate is the only estate with ongoing complaints and concerns arising from dust, and I cannot rule out there is a link. I appreciate that the appellant carried out surveys of airborne particulates, but the results are not before me. In any case, it seems unlikely that dust coming from a distant source would be deposited on this estate only.
36. The complaint logs to the Council and the Environment Agency (EA) begin in April 2020 and the complaints concerning dust have continued throughout 2020 and 2021, with the final entry being around the time the hearing was scheduled. The complaints and objections appear to highlight dust deposition outside the site and possible health complaints. However, I accept that photographs of dust generation within the site do not necessarily indicate that dust is leaving the site confines. Moreover, the complaint log does not identify where the dust is being seen or being deposited.
37. I appreciate that the appellant has made every effort to control dust arising from the site and its operations. However, although there is a dust management plan (DMP), and the sprinklers have a reach that extends to most of the site to damp down stockpiles and surfaces, the DMP's deployment

appears to rely mainly on observation from staff within the site. Moreover, on one of my site visits there was a time lag between wishing to turn the system on, and its actual deployment, to allow the feeder tank to fill. Although the DMP can be turned on by security when the site is closed, this would require constant monitoring. For some periods at least, this would be when the site was dark and conditions generating dust transfer may not be immediately apparent.

38. However, there is nothing before me to indicate that greater automation and/or timers could not address some of these issues. Moreover, the complaints are not linked to particular weather conditions, specific operations linked to the appeal development, nearby building work, or specific failures of the Dust Management System (DMP). The dust's composition has been analysed and although it could well have emanated from the site, that cannot be proved. As such, it is difficult for me to assess the level of everyday nuisance caused by dust, or the efficacy of the DMP on the basis of what is before me, particularly as the lawful operations would themselves be a source of dust.
39. Furthermore, the EA has given a permit for recycling works on the site. The EA confirmed that it has visited the site on several occasions, usually unannounced. Despite being in receipt of many complaints regarding dust, the EA is unable to conclude that dust arising from the site is a significant issue. It is also satisfied that the DMP is adequate if implemented correctly.
40. The permit sets out that emissions of substances not controlled by emission limits shall not cause pollution. The operator shall not be taken to have breached this rule if appropriate measures to prevent or minimise those emissions have been taken. The test is to prevent or minimise emissions. I do not doubt that the DMP and other measures are reducing or minimising dust emissions from the site, but this does not necessarily amount to a satisfactory situation for local residents, which is the test before me. The ongoing complaints suggest that either the dust mitigation is not being implemented correctly or it is not adequate. Or it may be that the amount of dust considered to be a nuisance by the EA is less than that considered to be a nuisance by local residents.
41. However, on balance I conclude that the operator is clearly taking steps to minimise emissions and if the DMP operated as planned, airborne materials would be considerably reduced, and would provide at least a partial solution to the dust concerns. Moreover, as noted above, the lawful operations may also contribute to dust issues to some extent.
42. In the absence of other concerns, and given that there are various procedures in place to control dust, I would consider whether it would be appropriate to give temporary permission for the recycling works. This would enable a more a detailed examination of the operational issues associated with the DMP and the extent to which other measures are required. Moreover, if allowed, boundary planting could assist in limiting dust movement.
43. However, as set out above in respect of noise, and to a lesser extent in respect of dust, I conclude that the development would have an adverse effect on living conditions for the reasons set out above, and this would be contrary to LP Policy 46 which states that non-residential and commercial development shall have no unacceptable negative effects on the amenity of neighbouring land uses or the environment, and LP Policy 4 (E) as set out above. It would also be

contrary to Paragraph 130 (f) of the National Planning Policy Framework which requires development to have a high standard of amenity for existing and future users.

*Other matters*

44. The noise survey identifies that the site is bordered by a hotel and public house, and the plan shows that they are closer to the crusher than the identified noise sensitive location. These businesses were not included in the Council's reasons for refusal, but noise is raised as a concern by the manager of the hotel. Moreover, both businesses are further from traffic noise on Pastures Road. Although the main issue of living conditions relates to occupiers of the residential estate, it seems very likely that the noise experienced in the car park and outdoor sitting area would be different to that recorded in the noise survey and I am unable to conclude that it would be less intrusive than for the residents of the housing estate.
45. Highway safety was raised as a concern by interested parties, and there is evidence before me which shows lorries and vans, some which bear the Catlow logo, being parked and driving in the residential estate opposite the site. However, these are public roads. I accept that parking, idling and using the estate roads is unsatisfactory in that it causes irritation and may raise highway safety risks. However, without more detailed information of the vehicles involved and their loads, even if I give any weight to those instances, it is very difficult to attribute such use to the operations associated with the appeal before me, as they could equally be associated with the ongoing lawful use of the site.
46. Moreover, having driven around the estate it is difficult to envisage a situation where lorry drivers would take a short cut through the estate in preference to the more direct Pastures Road, on more than an exceptional basis. Moreover, the appeal development would require the use of an additional gate and a one-way circulation within the site. I appreciate the Council's concern that there is a lack of clarity around the exact timings of vehicle movements within the site, particularly as it is unlikely that vehicles will arrive at regular intervals. However, the site appears to be large enough to accommodate several HGVs in a queue, particularly if there is a dedicated entrance and exit.
47. I acknowledge that the second gate is not currently operational. However, I have to base my reasoning on the premise that if the appeal is allowed, it would be. Moreover, I am aware that there are options available to the highways authority to restrict certain vehicle movements on public roads if required.
48. As set out above, the transport surveys indicate that even with the proposed uplift in vehicle movements, the HGV movements associated with the site would contribute less than 10 per cent of overall HGV movements along Pastures Road. This is not a significant increase. The transport survey also indicates that the additional turning movements at the junction of the site and Pastures Road would not exceed road capacity. This is not disputed by the Council. As such, I am unable to conclude that the development would cause additional highway risk or compromise highway safety.
49. Representations have been received in respect of floodlights. However, these predate the current occupation of the site and are not part of the works being

requested under this appeal. Other representations have raised concerns in relation to dust on the canal and its impact on biodiversity but there is no substantiated evidence in this regard and the EA confirmed that it has no concerns.

50. Although not raised as a reason for refusal, the Council's appeal evidence includes references to harm to visual amenity. This has also been raised by interested parties. Although at road level the operations within the site are not particularly visible, as they are screened by boundary planting, the planting is limited in height. Photographs submitted in the evidence clearly show that from nearby first floor windows there are views of machinery and the tops of stockpiles. The stockpiles are also visible from the canal behind the site.
51. The appellant wishes to limit stockpile height to 4.5 metres as this enables the digger driver to have an eyeline above the level of the crusher hopper, which is in line with best practice when loading the crusher. I see no reason to disagree with this argument.
52. However, notwithstanding that trees or taller hedging takes time to establish, I am satisfied that in the event that the appeal was allowed, a planting scheme and/or other boundary treatments could in time provide screening. I appreciate that this would not be an instant solution, but that is the case wherever trees or hedging are proposed to mitigate development. It was suggested that the blockwork walls could be raised to screen the stockpiles. Although these would be modular structures, they would be more permanent than the stockpiles and I am not persuaded that they would be any less unsightly.
53. The Council has not raised any concerns in relation to the modular buildings, access onto Pastures Road, flood risk, ecology, or the noise and disturbance arising from traffic if this was limited to 40 two way trips per day. On the basis of that is before me, I see no reason to disagree.

#### *Planning Balance and Conclusion*

54. The development would have significant benefits arising from additional employment and the local recycling of construction materials. Moreover, the land is designated for employment use. The development would be acceptable in principle, subject to satisfactory impacts on residential amenity.
55. However, although I have conclude that the benefits arising from the development would outweigh the harm arising from dust, which could in any case be further mitigated, I have been unable to conclude that the noise associated with the change of use would be at acceptable levels. Consequently, I conclude that the benefits arising from the development, to which I attribute significant weight, do not outweigh the harm to residential amenity.
56. I conclude therefore that the development would fail to accord with the local development plan taken as a whole and there are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

*A Edgington*      INSPECTOR

## APPEARANCES

### COUNCIL

Jess Duffield	Doncaster Metropolitan Council
Andrea Suddes	Doncaster Metropolitan Council
Gavin Levett	Doncaster Metropolitan Council
Andy Wiltshire	Doncaster Metropolitan Council
Cllr Pickering	Doncaster Metropolitan Council
Cllr Chapman	Doncaster Metropolitan Council
Cllr Pickering	Doncaster Metropolitan Council
Philip Robson	Kings Chamber
Gary Levett	Environment Agency

### APPELLANT

Adrian Catlow	Catlow Engineering
Ian Darbyshire	Catlow Engineering
Charles Banner	Keating Chambers
S Dexter	Clarion Solicitors
Caitlin McFall	Clarion Solicitors
Will Mulvany	Wardell Armstrong
Malcolm Walton	Wardell Armstrong
Andrew Moseley	AMA Transport

### INTERESTED PARTIES

John Cotterill





## Appeal Decision

Site visit made on 27 April 2022

**by M Clowes BA (Hons) MCD PGCERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 May 2022**

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**Appeal Ref: APP/F4410/W/21/3286257**

**2 Rectory Gardens, Wheatley, Doncaster DN1 2JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr Andrew Muscroft-Gosden against Doncaster Metropolitan Borough Council.
  - The application Ref 21/01596/FUL, is dated 10 May 2021.
  - The development proposed is described as 'erection of two storey rear/side extension and associated works to include patio path and driveway re-paving, reinstatement of boundary fence/railings.'
- 

### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by Mr Andrew Muscroft-Gosden against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's appeal statement, which provides clarity in terms of the reasons why the Council would have refused planning permission for the proposed development, had it been able to do so. These have formed the main issues below.
4. The submitted documents lack information regarding certain aspects of the proposal, namely the proposed fences, railings and gates. I will deal with these aspects in more detail in my decision. Overall, I am satisfied that I have enough information to determine the appeal proposal.

### Main Issues

5. The main issues are the effect of the proposed development upon:
  - i) the character and appearance of the area, including the Thorne Road Conservation Area; and
  - ii) the living conditions of the occupiers of 4 Rectory Gardens with particular regard to privacy.

## Reasons

### *Character and Appearance of the Area*

6. The appeal site relates to a detached 2 storey dwelling occupying a spacious corner plot at the junction of Rectory Gardens and Thorne Road. The property is set back with garden to all sides and there are a number of mature trees behind low boundary walls to the road frontages.
7. The site lies within the Thorne Road Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act), I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies in its buildings of architectural interest, namely 20<sup>th</sup> century buildings, boundary walls and hedgerows and trees which contribute to the green, spacious surroundings.
8. The Council considers the proposed 2 storey rear extension to be subordinate to the host dwelling and appropriate to the size of the plot and character of the CA. Based on all that I have seen and read, I see no reason to disagree with this point of view.
9. The description of development set out on the planning application and appeal forms refers to the reinstatement of boundary fences and railings. However, there are no complete elevation drawings and corresponding block plan indicating the precise position, form and height of the proposed fences or railings before me. The indicative 3D views provided, whilst appearing to include boundary treatments are incomplete and it is not clear which part would consist of a fence and which part would be railings. Whilst reclaimed railings were present on site I cannot assume where they are to be positioned or that they would reflect the position approved by the previous Inspector (appeal reference 3249282). Furthermore, there is no information to advise how any of the proposed boundary treatments would relate to the historic wall of the former 19<sup>th</sup> century Highfield House, which bounds the site to the north-east. This wall has important evidential and aesthetic value to the character and appearance of the CA, and it is important that this is not harmed by any new development.
10. I saw that close boarded fences were not characteristic of the street scene in either Rectory Gardens or this part of Thorne Road. Stone or brick walls are predominant and railings of varying types are frequent. A new fence therefore has the potential to be discordant within the street scene. Matters of this importance could not be appropriately regulated by the imposition of a condition.
11. I note the appellants' final comments suggest that the fences are to be 2m in height and that consent is sought for iron gates to match the railings approved by the previous Inspector. This is new information introduced at a late stage that may prejudice interested parties who were not availed of this information at the time of the planning application. There are no details of the design or height of the proposed gates. Consequently, I have insufficient information to be certain that the proposed fences and gates would not detract visually from the street scene or that they would preserve or enhance the character and appearance of the CA, as required by the Act.

12. In the words of the National Planning Policy Framework (the Framework), even with the absence of detailed information, given the nature and the scale of the development, the harm caused to the setting of the CA would be likely to be less than substantial, but nevertheless important. The appellant has raised matters relating to safety, security and the need for crime prevention measures at the appeal site. Nevertheless, the historic environment has strong protection through the planning system. There are likely to be sensitive schemes that could achieve the desired safety and security improvements without causing visual harm. The benefits do not outweigh the less than substantial harm in this instance and the proposal would fail to comply with the Framework as a result.
13. The scheme additionally includes a proposal for the re-paving of a patio, driveway and path. The appellant considers that these works do not require permission. Even if this were to be the case, the works are included in the description of development and no accompanying details have been provided for me to consider.
14. The proposed extension by virtue of its size, position and overall form would not be harmful to the character and appearance of the CA. Nevertheless, it has not been demonstrated that the proposed fences, railings and gates would preserve or enhance the character and appearance of the CA, as required by the Act. The proposal would also conflict with Policy 37 of the Doncaster Local Plan (2021) which amongst other things, seeks to ensure that proposals do not detract and that they preserve or enhance the heritage significance of a CA.

#### *Living Conditions*

15. The Council have referred me to the Doncaster Council Development Guidance and Requirements Supplementary Planning Document 2015 (SPD). Amongst other things, it aims to ensure that new development considers adjoining land uses and does not impact significantly on the amenity of neighbours.
16. The Council considers that the proposed 2 storey rear extension would not be harmful to the amenity afforded to the neighbouring Care Home and based on all that I have seen and read, I see no reason to disagree with these findings.
17. The SPD advises that habitable rooms that overlook a neighbouring garden should normally be at least 10m from the boundary. The Council advise that the proposed extension would be 8.5m from the boundary with No 4 Rectory Gardens but the appellant disputes the Council's measurement. Even if the distance is 10m and the development would comply with the SPD as suggested by the appellant, I am mindful that this is guidance.
18. During my visit I observed the particular layout of the site and position of the proposed development. The proposed extension would result in windows serving habitable rooms including a kitchen and bedroom, being positioned closer to the boundary with No 4 Rectory Gardens than is currently the case. Direct overlooking of the habitable windows in the single storey rear outrigger and the rear yard area of No 4 could therefore occur. This yard is the only private amenity space afforded to the neighbouring dwelling. Even if a fence were to be erected along the shared boundary as the appellant suggests, it would only prevent overlooking from the proposed ground floor windows. It would not mitigate the impact of the proposed first floor bedroom window in particular, and I find there would be a harmful loss of privacy as a result.

19. The proximity of the proposed extension and in particular the position and height of the proposed first floor rear bedroom window, would result in an adverse effect upon the living conditions of the occupiers of No 4, with regard to privacy. Consequently, conflict is found with Policy 44 of the Doncaster Local Plan (2021) which seeks to protect existing amenity and not impact significantly on the privacy of neighbours, an objective shared with the SPD (2015).

### **Other Matters**

20. The appellant cites discrimination by the Council who he suggests failed to engage with the appellant during the determination process and failed to determine the planning application in a timely manner. Having due regard to the Public Sector Equality Duty contained within the Equality Act 2010, there is no evidence before me that any discrimination has occurred. Concerns over how the Council dealt with the planning application are a matter for the main parties.

21. The appellant suggests that the Council has permitted several similar or identical developments in surrounding CAs. It is unclear which element of the proposed development the appellant is referring to, and I have not seen anything to adequately support this suggestion. I cannot draw any comparison to the appeal development from unspecified examples. Regardless, I have considered the proposal on its own merits with regard to the main issues of the case.

22. Reference is also made to the ability to erect means of boundary enclosures without the need for planning permission. However, there is no evidence before me to suggest that there is a reasonable likelihood that the appellant would implement such permitted development rights were I minded to dismiss the appeal on other grounds. In any event, given the lack of information provided in respect of the proposed fence and railings I cannot make a comparison with what may be permissible under permitted development rights and whether the degree of harm would be less. These matters do not affect my overall findings.

### **Conclusion**

23. As a whole, there are no material considerations that would warrant taking a decision otherwise than in accordance with the development plan. I conclude that the appeal should be dismissed.

*M Clowes*

INSPECTOR



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# Appeal Decision

Site visit made on 27 April 2022

**by M Clowes BA (Hons) MCD PGCERT (Arch Con) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 May 2022**

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**Appeal Ref: APP/F4410/W/21/3289887**

**Fairwinds, Hatfield Road (A1146), Thorne, Doncaster DN8 5RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Michael and Sandra Cleary against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 20/02300/FUL, dated 18 August 2020, was refused by notice dated 22 September 2021.
  - The development proposed is described as 'replacement of dwelling, 2 storey and demolition of existing dwelling, single storey within 3 months following erection and habitable state of new dwelling.'
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## Decision

1. The appeal is dismissed.

## Applications for Costs

2. An application for costs was made by Mr and Mrs Michael and Sandra Cleary against Doncaster Metropolitan Borough Council. This application is the subject of a separate decision.

## Procedural Matters

3. The Council's decision was made in relation to the Doncaster Council Core Strategy 2012 and the Doncaster Unitary Development Plan 1998. These plans were superseded by the Doncaster Local Plan (the Local Plan) when it was adopted in September 2021, the day after the decision was issued. My decision is based on the policies within the Local Plan (2021) since it is the adopted development plan at the time, and the National Planning Policy Framework (the Framework). Whilst some paragraph numbers have changed and sections added, the substantive elements of the since revised 2021 Framework, as they relate to the main issues of the case, have not changed from the previous iteration.
4. There are slight variations in the size of the existing development as shown on the site plan and floorplans. Notwithstanding the discrepancies, I am satisfied that I have sufficient information before me to properly assess the impact of the proposed development in regard to the main issues.

## Main Issues

5. The main issues are the effect of the proposed development upon the character and appearance of the area and whether it would be at an unacceptable risk of flooding.

## Reasons

### *Character and Appearance*

6. The appeal site relates to a detached bungalow occupying a large plot set back from Hatfield Road (A1146), behind tall conifer hedging and timber gates. The Doncaster to Scunthorpe railway line segregates the appeal site visually from the built environment of Thorne. The boundary with the appeal site is marked with intermittent native planting some of which is deciduous. Hatfield Road is generally bounded by native hedgerows with additional tree planting, beyond which lie agricultural fields to either side. Other than the appeal site and the Red Myle Farm complex to the south-west, there are very few buildings along this northern-most part of Hatfield Road. As a result, the street scene has a distinctly verdant, open and undeveloped rural feel which contributes positively to the character and appearance of the area.
7. Subject to certain criteria, Policy 25 of the Local Plan (2021) supports proposals for the replacement of a dwelling within the Countryside Policy Area (CPA). The main parties agree on satisfaction of all but one of those criteria which sets out that replacement dwellings should be positioned on a comparable footprint, and in close proximity, to the original building. In addition, volume increases are restricted to 40% above that of the original building. The 'original' building is defined as its floorspace and volume when it was constructed or as it was on 1 July 1948, whichever is the latest. I agree therefore, that the existing conservatory should not be included in the floorspace and volume calculations for the existing dwelling.
8. Being erected on land immediately behind the existing bungalow, the appeal scheme would be in close proximity thereto. Despite the discrepancies between the floor and site plans, it is apparent that the footprint of the proposed dwelling would be larger than the original, approximately 19.6% as cited by the appellant. I would not consider such an increase comparable.
9. The Council advises that the volume of the original dwelling is 515m<sup>3</sup> whilst the replacement dwelling would have a volume of 860m<sup>3</sup>, an increase of 66.9%. The appellant calculates an increase of 47%. Either way, the proposed dwelling would exceed the maximum 40% permissible by Policy 25. As the replacement dwelling is not of a particularly exceptional quality, or innovative or energy efficient design, I see no reason to depart from the policy's maximum expectations.
10. The 40% maximum standard is only applicable where the development would have a significant impact on the character of the countryside. The existing dwelling being a bungalow, has a horizontal emphasis that nestles into the land. Although the proposed dwelling would be set further back into the site it would, by virtue of the addition of a second floor and tall hipped roof, have a significantly greater visual presence than the existing dwelling. Whilst the hedgerow to the front boundary with Hatfield Road would partially screen the scheme, there is no guarantee that it would remain in the future.
11. The ridge of the roof of the existing dwelling can be seen behind the front hedgerow from Tudworth Road (A614) which lies beyond Hatfield Road to the south-east. Notwithstanding the appellants 3D visual images of the existing and proposed dwelling, I find the proposal would substantially increase the level of built development on the site, thereby reducing the open feel of the

countryside in public views from both Tudworth Road and Hatfield Road. In addition, public views can be obtained from the railway line to the north, which is raised up on an embankment above the appeal site. The dwelling due to its height and scale would be visually intrusive, and a significant and adverse urbanising impact on the character and appearance of the countryside would occur as a result.

12. In isolation, the design of the proposal would not be inappropriate. The harm would arise when this is considered along with its overall scale and its increase in both a policy and site specific sense. The proposal was evidently reduced in size through discussions between the appellant and the Council but, as I have found, these changes did not go far enough to make the appeal scheme acceptable. In addition, there are more than likely other ways of achieving the desired outcome of a larger 2 storey dwelling, that would meet future accessibility requirements and avoid the harm that I have identified.
13. Policy 25 of the Local Plan (2021) is up to date having recently been found sound by an Inspector. The comparative approach to extensions or replacement dwellings in the countryside is a relatively common planning practice, enabling the impact of new development to be proportionate to the visual impact of existing or original development. Paragraph 9.9 of the supporting text to Policy 25 is clear that the maximum permissible 40% volume increase for a replacement dwelling, is inclusive of any permitted development. I do not therefore share the view that theoretical extensions permissible under permitted development rights, should be added to the size of the existing dwelling before the volume is calculated. In any case, Policy 25 is clear in referring to the original building as a comparable.
14. I attach limited weight to the guidance in the Development Guidance and Requirements Supplementary Planning Document (2015) given the newness of the Local Plan (2021) and its focus on sites within the Green Belt which is not applicable in this instance.
15. Red Myle Farm is the nearest neighbouring dwelling to the appeal site. It differs from the proposed dwelling in that it is double fronted with a narrower overall frontage and of more modest proportions, set further back from Hatfield Road. Examples of dwellings at the southern end of Hatfield Road have an entirely different context as they are grouped with other buildings and are physically and visually detached from the appeal site.
16. The extensions at Firtrees and Chase Farm were a different form of development to the replacement dwelling proposed here. Hill View Farm (cited by the Council), The Bungalow, The Ripple and Burntwood Lodge are all located within the Green Belt rather than the CPA. The Nursery, Sunholme and East Lings Bungalow were permitted under a different local planning policy context, as were all of the other examples referenced above. The examples are not therefore comparable to the development before me. In addition, the lack of objections from statutory consultees and neighbours, does not justify development that would be harmful to the character and appearance of the area.
17. I find the proposed dwelling would result in a harmful effect on the character and appearance of the area. As such it fails to accord with Policy 25 of the Local Plan (2021) which amongst other things, aims to control development in the countryside to prevent harm to the openness or character of the area. The

proposal would also fail to comply with paragraph 174 of the Framework, which requires proposals to enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### *Flood Risk*

18. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The site is located within Flood Zone 3, an area with a high probability of flooding.
19. The Framework nor Planning Practice Guidance (PPG) explicitly state whether proposals for a replacement dwelling require a sequential test of alternative sites outside of the flood risk area to be carried out. Neither does Policy 57 of the Local Plan (2021). The Council's Development and Flood Risk Supplementary Planning Document (SPD) 2010 states that replacement dwellings will not require a sequential test provided that, they do not significantly increase the footprint or occupancy of the building. As discussed above, I consider that the footprint of the proposed dwelling would be considerably larger.
20. Notwithstanding the guidance contained in the SPD, and although the proposed dwelling would have a larger footprint, the proposed development would not increase the number of dwellings at the site. A new vulnerable use would not be created in the floodplain as a result of this proposal. Even if the size of the dwelling and therefore occupancy would increase, the vulnerability of the occupants to flood risk would be reduced overall, given the provision of first floor accommodation which is of particular benefit. Furthermore, an amended Flood Risk Assessment (FRA) has demonstrated that the proposed dwelling can be made safe through the inclusion of resilience measures which were accepted by the Environment Agency.
21. For these reasons, although the proposed development would not strictly accord with the SPD (2010), I am mindful that it is guidance. The proposal would comply with the more recent Policy 57 of the Local Plan (2021), which seeks to steer new development away from areas at the highest risk of flooding. The proposal would also accord with section 14 of the Framework which seeks to ensure that development is appropriately flood resistant and resilient. As these policies are more up to date they take precedence, as set out under Section 38(5) of the Town and Country Planning and Compulsory Purchase Act. I am satisfied therefore, that the proposed development would not be at an unacceptable risk of flooding.

### **Other Matters**

22. I understand the appellants' desire to have an adaptable home to enable independent living if health circumstances are to change. I must have due regard to the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it. I do not doubt the appellants' intentions to provide an adaptable home for their possible future needs. However, achieving prospective accessibility benefits, do not appear to be inherently reliant on the scheme before me.



23. Whilst Policy 45 of the Local Plan (2021) supports proposals for new housing where they meet the Nationally Described Space Standards, the Council have demonstrated that the proposed dwelling would substantially exceed these requirements. Whilst it is correct that persons with a protected characteristic should not be expected to have a reduced standard of living accommodation compared to those who do not share such characteristics, possible future medical needs in this instance do not outweigh the harm identified to the character and appearance of the area.
24. Although adaptive, the proposed dwelling is not required to meet particular medical needs at this point in time, and it would not provide specialist housing for older or disabled people as defined in the PPG. Having carefully considered the potential benefits of the scheme, dismissal of the appeal is a proportionate response to the well-established planning objectives of protecting the countryside, and I am led to a dismissal of the appeal.
25. Reference is made to the fallback position of adding a first floor extension under permitted development rights. These permitted development rights are subject to a prior approval process. They do not crystallise until that procedure has been completed and granted. As the prior approval process has not been completed, I attach limited weight as a fallback position. In addition, there is no evidence before me that would suggest that there is a reasonable likelihood that the appellant would implement these permitted development rights were I minded to dismiss the appeal, given their preference for a replacement dwelling. This matter does not affect my overall findings.
26. Concerns have been raised in respect of the Council's approach to the proposal and determination of the application. This is largely a matter between the appellant and the Council, although I have considered it in so far as it is relevant within the associated decision on the matter of costs.

### **Conclusion**

27. Whilst I have found in the appellants favour in regard to the second main issue, this would be a lack of harm which by definition cannot be used to weigh against it. In regard to the first main issue, the appeal scheme would conflict with the development plan and, there are no material considerations worthy of sufficient weight to indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

*M Clowes*

INSPECTOR

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## Appeal Decision

Site visit made on 17 May 2022

by **Helen Davies MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: Tuesday 7 June 2022**

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**Appeal Ref: APP/F4410/W/22/3291527**

**59 Church Street, Bawtry, Doncaster DN10 6HR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mike Murtagh of Rural Estates against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 20/01486/FUL, dated 2 June 2020, was refused by notice dated 29 July 2021.
  - The development proposed is the construction of 7 properties following demolition of existing dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development is taken from the application form. The description is incorrect on the appeal form but all other appeal submissions are in line with the original application.
3. When the application was determined, the development plan consisted of the Doncaster Core Strategy, saved policies of the Doncaster Unitary Development Plan and the Bawtry Neighbourhood Plan. Examination of the Doncaster Local Plan 2015-2035 (LP) had concluded, and subject to recommended modifications was considered to be sound. Therefore, in accordance with Paragraph 48 of the National Planning Policy Framework (the Framework), policies within the emerging LP were given substantial weight in determining the application. Subsequently, the LP was adopted on 21 September 2021.
4. The Council reason for refusal with regard to outside amenity space did not make reference to the emerging LP, but their appeal statement indicates that LP policies 10 and 44 are relevant. The Council reason for refusal with regard to highways and parking matters referred to emerging LP policies 13 and 44, which remain the relevant policies under the adopted LP. This appeal has been determined in accordance with the development plan in force at the time of the decision, which is the adopted LP.
5. Supplementary Planning Documents (SPDs) referred to by the Council have since been revoked. Although I have not been provided with a copy, the Council state that Transitional Developer Guidance is in place whilst new SPDs are considered, which contains the same recommended sizes for outside amenity space as the revoked Development Guidance and Requirements SPD.

## **Main Issues**

6. The main issues are:

- Whether the proposed development would provide acceptable living conditions for future occupants, with regard to outside amenity space.
- The effect of the proposed access and parking arrangements on the safety of pedestrians and drivers using the highway on Church Street.

## **Reasons**

### *Living conditions*

7. As set out in procedural matters above, SPDs referred to by the Council have since been revoked. Regardless of this, as set out in the Framework, SPDs are capable of being a material consideration but are not part of the development plan. The fact that the proposal falls short of recommendations set out within an SPD for sizes of outside amenity space may well be an indication of harm. However, I have made my own judgement based on the circumstances and details of this case.
8. Six of the seven proposed plots contain three bedroom houses and would all provide outside amenity space that falls well short of Council recommendations on size, with two of those plots falling significantly short. The appellant states that the proposal includes good quality, protected, usable spaces, designed as 'courtyard style gardens in line with a town centre location'. Whilst I agree that the shape of the outside spaces makes them usable, I consider the site to be located on the edge of town in a predominantly residential area rather than being in the town centre. Regardless of this, whilst some town centre developments such as flats and apartments may appropriately be served by smaller or shared outside spaces, no explanation has been provided as to why the location or design of this proposal would justify small outside spaces.
9. Houses of the size proposed would likely be occupied by families, and it is reasonable to expect such houses to provide sufficient outside space for residential activities including sitting out, playing, drying of clothes and storage of cycles and bins. The proposed outside spaces would be too small to adequately accommodate such activities. The appellant notes that the plans could be amended to extend the outside spaces, but no such proposal is before me for consideration.
10. I conclude that the proposed development would fail to provide adequate outside amenity space so would result in unacceptable living conditions for future occupants. Consequently, the development would not comply with Policies 10 and 44 of the LP, which together, amongst other things, seek to ensure that housing development provides adequate garden space. Furthermore, it would not accord with paragraph 130 of the Framework which seeks to ensure that developments create places with a high standard of amenity for future users.

### *Highway safety*

11. The site fronts onto Church Street, on the corner with Gainsborough Road. This section of Church Street is relatively short and is width restricted where it joins Cock Hill Lane to the south. There is a footway both sides of the road in the

area of the site, but most of the rest of this section of Church Street lacks formal footways, with dwellings fronting directly onto the street. There are double yellow lines near the junction with Gainsborough Road and white 'keep clear' markings on the road in front of a number of garages and gates. I am informed that the speed limit for the street is 30mph.

12. At the time of my visit<sup>1</sup> there was a high level of parking along Church Street, with vehicles parked end to end along most of the frontage on both sides of the street. There were vehicles or other obstructions in a number of the areas marked as 'keep clear'. Despite this, the number of vehicles travelling along the street during my visit was low, with the short distance between the junction and the width restrictions seemingly keeping speed low.
13. The site is in a sustainable location with good access to services and facilities. However, its proximity to the town centre may well be a source of some of the parking pressures on the street. The proposal includes a separate entrance and exit to a parking area to the rear of the dwellings. It would provide 2 parking spaces per dwelling, plus visitor parking, in line with Council recommendations. Given the size of the proposed dwellings and the surrounding context, this is a reasonable level of on-site parking to expect.
14. The appellant has provided a Highways Technical Note which includes a plan at appendix B showing proposed visibility splays at the entry and exit points and tracking diagrams for on-site vehicle movement and parking. However, the site layout shown in appendix B, on which the calculations are based, is different to the site layout on the proposed site plan drawing<sup>2</sup>, on which the Council decision was made and which is submitted for consideration under this appeal.
15. The Council have raised concerns about the ability of the proposal to provide suitable visibility at the entry and exit points, particularly given the proximity of the front elevations to the footway kerb. Whilst the appellant says that suitable visibility splays can be provided, as their calculations shown in appendix B are not based on the final site layout, this has not been adequately demonstrated.
16. The appellant states that traffic levels<sup>3</sup> and vehicle speeds are low, no accidents have been reported, and Church Street is not widely used as a cut through. My site observations seem to confirm this but are only a limited snapshot. No traffic survey has been provided.
17. I acknowledge that Manual For Streets 2 advises that parking in visibility splays in built-up areas is quite common yet does not appear to create significant problems in practice. However, the lack of a footway for much of the length of Church Street and vehicles parked close to dwelling frontages, means that pedestrians are likely to walk in the street itself and between parked cars. Because of this, it is particularly important that adequate visibility is provided at the site entry and exit points to ensure the safety of pedestrians and vehicles.
18. The appellant suggests that suitable road markings might aid visibility by keeping the area around the access points clear of parked vehicles. By contrast, the Council have indicated that 'keep clear' markings are generally only permitted to extend across the entrance itself, not to the extent of the

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<sup>1</sup> Mid-morning on a weekday.

<sup>2</sup> Proposed site plan site location plan and external works details, drawing no. 01, Rev, R3.

<sup>3</sup> I am informed that a pre-application response referred to Church Street as a 'lightly trafficked' road.

visibility splay as shown in appendix B, and do not seem to be consistently complied with, which reflects my site observations. I note that the existing 'keep clear' markings appear to relate to accesses that serve single dwellings, rather than a parking area for 7 dwellings as would be the case with this proposal, so direct comparisons cannot be made. Therefore, whilst road markings could potentially be secured via a 'grampian'<sup>4</sup> condition, I have no substantive evidence to suggest that on their own, such markings would ensure suitable visibility at the entry and exit points of the development as proposed.

19. Appendix B also sets out that medium sized vehicles can manoeuvre within the site to park and enter and exit the site in forward gear. I accept that calculations based on medium sized vehicles are reasonable, but I can give the appendix B drawing very limited weight with regard to on-site vehicle movements as it does not match the site layout on which the decision was based. It may be possible for vehicles to use the parking area as laid out in the proposed site plan, but this has not been evidenced in the appeal submissions and in practice would depend to some extent on the size and turning circle of individual vehicles, as well as driver ability and confidence. The constrained nature of the parking area would potentially cause blockages at the entry and exit points leading to vehicles reversing onto the street. Some people would be deterred from using the parking area, resulting in additional parking demand on Church Street. Any additional parking on Church Street would exacerbate the existing parking pressures and potentially lead to inconsiderate parking. This would cause highway safety issues, particularly given the lack of a footway on much of the street. Therefore, I have no substantive evidence which would lead me to conclude that the proposal would provide suitable on-site parking.
20. I conclude that the proposed access and parking arrangement for the development would result in unacceptable harm to the safety of pedestrians and drivers using the highway on Church Street. Consequently, the development would not comply with Policies 13 and 44 of the LP, which together, amongst other things, seek to ensure that development provides safe access points and appropriate levels of convenient, safe and secure parking that does not result in unacceptable impacts on highway safety. Furthermore, it would not accord with paragraphs 111 and 112 of the Framework which seek to ensure that development minimises the scope for conflicts between pedestrians and vehicles and avoids unacceptable impact on highway safety.

### **Other Matters**

21. The site lies within the Bawtry Conservation Area. Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 specifies that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any building or other land in a conservation area. Despite some concerns raised in representations about the loss of the existing building, the Council raised no concerns regarding any impact on character and appearance. The form and layout of the proposal would be in keeping with the surrounding area. Therefore, the development would preserve the character of the Bawtry Conservation Area. However, this does not outweigh the harm identified above.

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<sup>4</sup> Grampian conditions derive from *Grampian Regional Council v Aberdeen CC* [1983] P&CR 633. The key features of a Grampian condition are that it is negatively-worded, to prohibit the commencement of the development until some specified action takes place, and the required action must be on land that is not controlled by the applicant and/or must be authorised by another person or body.

22. I note that both parties mention a pre-application enquiry, but it is common ground that the scheme subject to this appeal is different to the pre-application submission. I also note the appellant's frustration at the length of time taken to secure highway officer comments, and their perception that amenity issues were introduced to add weight to the refusal. I have dealt with the appeal on the basis of its planning merits.

### **Conclusion**

23. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

*Helen Davies*

INSPECTOR

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